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And Linda Johnson Rice

14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA
16
17 IN RE TESLA, INC. SECURITIES
18 LITIGATION

Case No. 3:18-cv-04865-EMC

19
20
21
**DECLARATION OF KYLE BATTER IN
SUPPORT OF DEFENDANTS'
OPPOSITION TO PLAINTIFF'S
MOTION FOR PARTIAL SUMMARY
JUDGMENT**

22 Date: March 10, 2022

23 Time: 1:30 p.m.

24 Location: Courtroom 5, 17th Floor

Judge: Hon. Edward Chen

25 **REDACTED FOR PUBLIC FILING**

DECLARATION OF KYLE BATTER

I, KYLE BATTER, declare as follows:

3 1. I am an attorney at the law firm Quinn Emanuel Urquhart & Sullivan, LLP, counsel for
4 Defendants Tesla, Inc., Elon Musk, Brad W. Buss, Robyn Denholm, Ira Ehrenpreis, Antonio J.
5 Gracias, James Murdoch, Kimbal Musk, and Linda Johnson Rice in this action. I make this
6 declaration in support of Defendants' Opposition to Plaintiff's Motion for Partial Summary Judgment.
7 I know the facts stated herein of my own personal knowledge and, if called as a witness, I could and
8 would testify competently thereto.

9 2. Attached hereto as **Exhibit A** is a true and correct copy of an August 15, 2018 article
10 by the Wall Street Journal titled “Saudi Arabia Goes High-Tech in Approach to Investing.”¹

11 3. Attached hereto as **Exhibit B** is a true and correct copy of excerpts of the August 29,
12 2018 deposition testimony of Elon Musk in the matter “Tesla Motors, Inc.” File No. SF-04082-A
13 (“SEC Matter”).

14 4. Attached hereto as **Exhibit C** is a true and correct copy of excerpts of the August 28,
15 2018 deposition testimony of Samuel Teller in the SEC Matter.

16 5. Attached hereto as **Exhibit D** is a true and correct copy of a November 15, 2017 article
17 by Rolling Stone magazine titled “Elon Musk: The Architect of Tomorrow.”

18 6. Attached hereto as **Exhibit E** is a true and correct copy of excerpts of the August 28,
19 2018 deposition testimony of Deepak Ahuja in the SEC Matter.

20 7. Attached hereto as **Exhibit F** is a true and correct copy of an email chain dated April
21 14, 2017 and produced in this action with the bates stamp TSLA_SECSF0059270.

22 8. Attached hereto as **Exhibit G** is a true and correct copy of an email chain dated April
23 24-26, 2017 and produced in this action with the bates stamp TSLA_SECSF0060208.

24 9. Attached hereto as Exhibit H is a true and correct copy of an email dated April 30,
25 2017 and produced in this action with the bates stamp TSLA_SECSF0060216.

²⁷ Previous deposition exhibits are marked with numbers (e.g., 1-400); new exhibits in support
²⁸ of Defendants' Opposition are marked with letters (e.g., A-Z).

1 10. Attached hereto as **Exhibit I** is a true and correct copy of a graph reflecting Tesla's
2 stock price from August 7 through 17, 2018.

3 11. Attached hereto as **Exhibit J** is a true and correct copy of an email chain dated August
4 12 through 13, 2018 and produced in this action with the bates stamp GSGTSLA-0000540.

5 12. Attached hereto as **Exhibit K** is a true and correct copy of an August 13, 2018 tweet by
6 Elon Musk.

7 13. Attached hereto as **Exhibit L** is a true and correct copy of excerpts from the November
8 10, 2021 report of Michael L. Hartzmark, Ph.D.

9 14. Attached hereto as **Exhibit M** is a true and correct copy of an August 14, 2018 article
10 by Barclays titled "Time for even 'blue pillers' to cash out?"

11 15. Attached hereto as **Exhibit N** is a true and correct copy of excerpts from the December
12 8, 2021 report of Daniel R. Fischel.

13 16. Attached hereto as **Exhibit O** is a true and correct copy of excerpts of the November 5,
14 2021 deposition testimony of Elon Musk in this matter.

15 17. Attached hereto as **Exhibit P** is a true and correct copy of excerpts of the August 11,
16 2021 deposition testimony of Sam Teller in this matter.

17 18. Attached hereto as **Exhibit Q** is a true and correct copy of excerpts of the August 5,
18 2021 deposition testimony of Deepak Ahuja in this matter.

19 19. Attached hereto as **Exhibit 8** is a true and correct copy of an August 7, 2018 tweet that
20 has been marked as deposition Exhibit No. 8.

21 20. Attached hereto as **Exhibit 10** is a true and correct copy of an August 7, 2018 tweet
22 that has been marked as deposition Exhibit No. 10.

23 21. Attached hereto as **Exhibit 11** is a true and correct copy of an August 7, 2018 tweet
24 that has been marked as deposition Exhibit No. 11.

25 22. Attached hereto as **Exhibit 12** is a true and correct copy of an August 7, 2018 Tesla
26 blog post that has been marked as deposition Exhibit No. 12.

27 23. Attached hereto as **Exhibit 13** is a true and correct copy of an August 7, 2018 tweet
28 that has been marked as deposition Exhibit No. 13.

1 24. Attached hereto as **Exhibit 16** is a true and correct copy of an August 13, 2018 Tesla
2 blog post that has been marked as deposition Exhibit No. 16.

3 25. Attached hereto as **Exhibit 19** is a true and correct copy of an August 16, 2018 article
4 by the New York Times that has been marked as deposition Exhibit No. 19.

5 26. Attached hereto as **Exhibit 26** is a true and correct copy of an August 8, 2018 Tesla
6 blog post that has been marked as deposition Exhibit No. 26.

7 27. Attached hereto as **Exhibit 33** is a true and correct copy of an August 8, 2018 article by
8 Evercore that has been marked as deposition Exhibit No. 33.

9 28. Attached hereto as **Exhibit 53** is a true and correct copy of an August 13, 2018 Tesla
10 blog post that has been marked as deposition Exhibit No. 53.

11 29. Attached hereto as **Exhibit 76** is a true and correct copy of an email chain dated
12 February 12, 2017 through April 15, 2017 that has been marked as deposition Exhibit No. 76.

13 30. Attached hereto as **Exhibit 81** is a true and correct copy of an email dated August 2,
14 2018 that has been marked as deposition Exhibit No. 81.

15 31. Attached hereto as **Exhibit 94** is a true and correct copy of an email dated August 11,
16 2018 that has been marked as deposition Exhibit No. 94.

17 32. Attached hereto as **Exhibit 105** is a true and correct copy of an email chain dated
18 November 7 through 10, 2016 that has been marked as deposition Exhibit No. 105.

19 33. Attached hereto as **Exhibit 106** is a true and correct copy of an email chain dated
20 January 31, 2017 that has been marked as deposition Exhibit No. 106.

21 34. Attached hereto as **Exhibit 109** is a true and correct copy of an email chain dated July
22 28 through 29, 2018 that has been marked as deposition Exhibit No. 109.

23 35. Attached hereto as **Exhibit 121** is a true and correct copy of a set of text messages
24 dated August 1 through 15, 2018 that has been marked as deposition Exhibit No. 121.

25 36. Attached hereto as **Exhibit 182** is a true and correct copy of a set of text messages
26 dated August 5 through 17, 2018 that has been marked as deposition Exhibit No. 182.

27 37. Attached hereto as **Exhibit 225** is a true and correct copy of an August 7, 2018 article
28 by Industrial Goods that has been marked as deposition Exhibit No. 225.

38. Attached hereto as Exhibit 229 is a true and correct copy of an August 24, 2018 Tesla blog post that has been marked as deposition Exhibit No. 229.

39. Attached hereto as Exhibit 255 is a true and correct copy of an email dated August 10, 2018 that has been marked as deposition Exhibit No. 255.

40. Attached hereto as Exhibit 323 is a true and correct copy of an August 11, 2018 article by Reuters that has been marked as deposition Exhibit No. 323.

41. Attached hereto as Exhibit 332 is a true and correct copy of an August 12, 2018 article by Bloomberg that has been marked as deposition Exhibit No. 332.

I declare under penalty of perjury of the laws of the State of California that the foregoing is true and correct. Executed this 1st day of February 2022.

Kyle Batts

Kyle Batter

EXHIBIT A

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<https://www.wsj.com/articles/saudi-arabia-goes-high-tech-in-approach-to-investing-1534325402>

MARKETS

Saudi Arabia Goes High-Tech in Approach to Investing

Talks with Tesla show how crown prince's sovereign-wealth fund has become a global player, but some worry about impulsive, risky bets



Saudi Crown Prince Mohammed bin Salman visits Lockheed Martin in San Francisco in April.

PHOTO: HANDOUT/REUTERS

By [Rory Jones](#) and [Summer Said](#) in Dubai and [Maureen Farrell](#) in New York

Updated Aug. 15, 2018 3:37 pm ET

When Saudi Arabia's Crown Prince Mohammed bin Salman toured the U.S. two years ago, he couldn't even get an audience with [Tesla](#) Inc. Chief Executive [Elon Musk](#), people familiar with the outreach said. Since then, his country's sovereign-wealth fund has boosted its stake in the car maker, and he is now weighing whether to be part of a deal to take the company private.

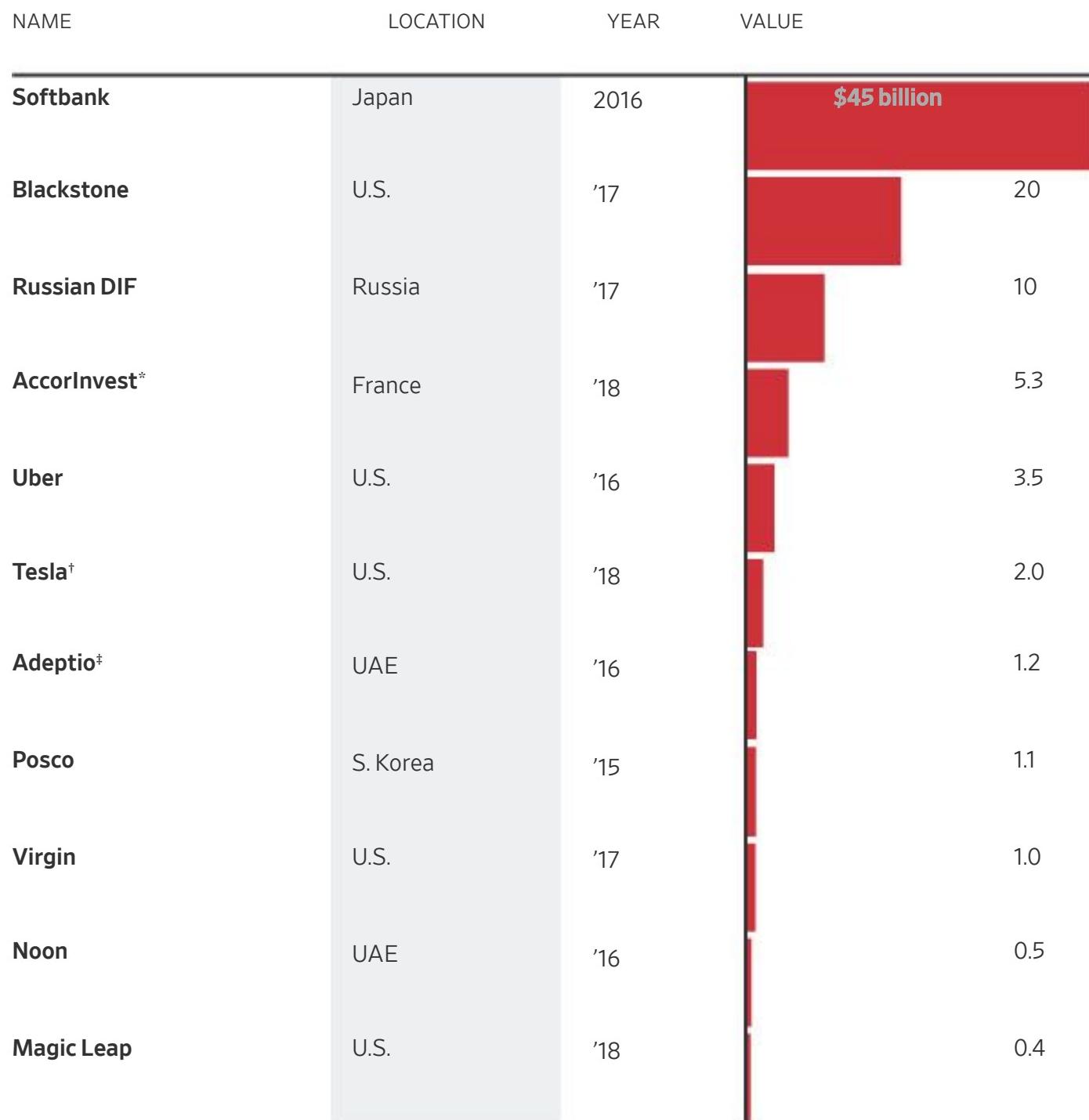
The shift shows how quickly Crown Prince Mohammed and his sovereign-wealth fund have become a pivotal global investor. The Public Investment Fund's moves have also brought an element of unpredictability to a \$225 billion fund, mirroring the headlong leadership style of 32-year-old Prince Mohammed, who is trying to transform Saudi Arabia from a staid petrostate to a technology-focused economy.

But with its aggressive approach to investment, PIF is also leveraging up, sourcing direct deals and shifting into higher-risk tech startups. Some Saudis worry that it is jeopardizing the wealth of Saudi Arabia's next generation by combining politics and inexperience with impulsive bets on technologies of the future. The talks with electric-car maker Tesla have crystallized those concerns.

"There are several people in the government that would question that deal and whether it is the right call," an adviser to the Saudi government said. "Saudi Arabia wants to go big on electric vehicles but wanting something and making it a reality is something else."

Splashing the Cash

Saudi Arabia's sovereign-wealth fund has quickly sourced billion-dollar deals.



*Part of a Consortium of buyers. †Estimated 4.6% purchase in listed shares reported by Financial Times. ‡Estimated value based on company's total sale value.

Source: Public Investment Fund press releases. Includes committed capital and announced stake purchases

Interviews with advisers and people close to the PIF said the fund sources its potential deals through political and business ties. The crown prince ultimately makes the call

whether to go ahead with investments, and in many cases, has forged personal connections with the executives running the companies.

An adviser to the Saudi government said talks about investing more in Tesla included the crown prince, who also is likely to have the final say on increasing PIF's stake.

The Saudi royal toured the U.S. in 2016 in a push for tech deals that included an outreach to Tesla, which was rebuffed, people familiar with the matter said. Tesla declined to comment on the account.

In a blog post on Monday, Mr. Musk said Saudi Arabia had reached out to him two years ago and he started face-to-face talks early last year with the PIF on a major stake.

Since then, the fund built a 4.6% stake via listed shares in Tesla, one of the U.S. stock market's most-shorted stocks. PIF's Chief Executive Yasir Rumayyan currently is working on a detailed proposal to present to the crown prince about increasing PIF's stake in Tesla, the adviser to the Saudi government said.

Mr. Musk stunned markets last week when he shared his thinking over Twitter about taking Tesla private. The announcement is now subject to regulatory scrutiny.

Tesla's directors on Tuesday formed a special committee to evaluate Mr. Musk's suggestion of taking the company private.

The senior Saudi adviser and another person with knowledge of the matter said SoftBank Group Corp. Chief Executive Masayoshi Son encouraged the Saudis to buy into Chinese electric-battery maker Contemporary Amperex Technology Co., but the crown prince preferred Tesla because it is American.

A spokesman for SoftBank declined to comment on Mr. Son's advice for the crown prince. People close to SoftBank have ruled it out of any deal for Tesla, despite its major partnership with PIF.

Spokesmen for PIF declined to comment. The Saudi government and its royal court didn't respond to phone and email requests for comments on this article.

Officials at the Saudi fund are seeking Tesla's expertise to tie into broader plans to create new industries in solar-power generation, battery storage and electric-vehicle production, The Wall Street Journal has reported. The fund, which is talks with banks to

Saudi Arabia's high-tech approach to investing

raise billions of its own debt, hopes its investments in technology will act as a hedge against the decline of the energy sector.



Participants watch a movie advertising Saudi Arabia's Red Sea project on the sidelines of the three-day Future Investment Initiatives conference in Riyadh last October.

PHOTO: FAYEZ NURELDINE/AGENCE FRANCE-PRESSE/GETTY IMAGES

The PIF isn't alone in investing in technology. Singapore's Temasek Holdings and GIC Private Ltd. and the China Investment Corp. also have become active in venture capital. Although unusual, other sovereigns such as Temasek also have taken on debt.

But the PIF is unique in the size and scope of the investments, said Javier Capapé, director of the Sovereign Wealth Lab at Madrid's IE Business School.

"PIF investing in tech is part of the country's wider strategy," he said. "What's not very clear to me is how investing in high-tech things will drive your economy or lead you into other sectors to compensate the oil."

The PIF is scrambling to raise money for its investments. The fund is in talks with banks to raise billions of its own debt and plans to use cash from the sale of its stake in Saudi Arabia's national chemicals company to oil giant Aramco, better known Saudi Arabian Oil Co., in a deal worth up to \$70 billion.

The PIF's first major international technology investment, in Uber Technologies Inc., was hatched in 2016 after a barbecue in Riyadh attended by PIF's Mr. Rumayyan and then-Uber policy head and former White House official, David Plouffe, people familiar with the deal said. Uber's then-chief, Travis Kalanick, subsequently visited Saudi Arabia to meet Crown Prince Mohammed and the PIF bought \$3.5 billion stake within weeks, people familiar with the deal said.

The PIF soon after made an even bigger wager than Uber. It committed \$45 billion into Softbank's \$100 billion Vision Fund. That deal was famously agreed upon in a 45-minute conversation between Crown Prince Mohammed and Mr. Son, before the two sides then spent months agreeing on the details.

A month later in Dubai, Mr. Rumayyan stepped in with another surprising investment.

Emirati billionaire businessman Mohamed Alabbar was set to announce a major new e-commerce startup to take on Amazon Inc. Minutes before Mr. Alabbar took the stage at the Dubai Opera House, the PIF signed an agreement to back the venture, known as Noon, with \$500 million, people familiar with this deal said. Although PIF had been reluctant to invest in the startup, Crown Prince Mohammed encouraged the deal because it is also backed by officials in Abu Dhabi, the capital of the United Arab Emirates and Saudi Arabia's closest ally, the people said.

In March, when Saudi Arabia also took a \$400 million stake in augmented-reality startup Magic Leap Inc., people close to the deal were stunned at how quickly it came together—just six days. The speed caught the attention of Silicon Valley's financiers and entrepreneurs.

"They did the Uber deal and increased their profile as a fund," said an adviser familiar with Saudi government thinking. "When Yasir [Rumayyan] then went to California, everyone wanted to meet him."

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EXHIBIT B

(filed under seal)

EXHIBIT C

(filed under seal)

EXHIBIT D

Elon Musk: The Architect of Tomorrow

 rollingstone.com/culture/culture-features/elon-musk-the-architect-of-tomorrow-120850

By Neil Strauss

November 15, 2017



It's mid-afternoon on a Friday at SpaceX headquarters in Hawthorne, California, and three of Elon Musk's children are gathered around him – one of his triplets, both of his twins.

Musk is wearing a gray T-shirt and sitting in a swivel chair at his desk, which is not in a private office behind a closed door, but in an accessible corner cubicle festooned with outer-space novelty items, photos of his rockets, and mementos from Tesla and his other companies.



Most tellingly, there's a framed poster of a shooting star with a caption underneath it that reads, "When you wish upon a falling star, your dreams can come true. Unless it's really a meteor hurtling to the Earth which will destroy all life. Then you're pretty much hosed, no matter what you wish for. Unless it's death by meteorite." To most people, this would be mere dark humor, but in this setting, it's also a reminder of Musk's master plan: to create habitats for humanity on other planets and moons. If we don't send our civilization into another Dark Ages before Musk or one of his dream's inheritors pull it off, then Musk will likely be remembered as one of the most seminal figures of this millennium. Kids on all the terraformed planets of the universe will look forward to Musk Day, when they get the day off to commemorate the birth of the Earthling who single-handedly ushered in the era of space colonization.

And that's just one of Musk's ambitions. Others include converting automobiles, households and as much industry as possible from fossil fuels to sustainable energy; implementing a new form of high-speed city-to-city transportation via vacuum tube; relieving traffic congestion with a honeycomb of underground tunnels fitted with electric skates for cars and commuters; creating a mind-computer interface to enhance human health and brainpower; and saving humanity from the future threat of an artificial intelligence that may one day run amok and decide, quite rationally, to eliminate the irrational human species.

So far, Musk, 46, has accomplished none of these goals.

But what he has done is something that very few living people can claim: Painstakingly bulldozed, with no experience whatsoever, into two fields with ridiculously high barriers to entry – car manufacturing (Tesla) and rocketry (SpaceX) – and created the best products in those industries, as measured by just about any meaningful metric you can think of. In the process, he's managed to sell the world on his capability to achieve objectives so lofty that from the mouth of anyone else, they'd be called fantasies.

At least, most of the world. "I'm looking at the short losses," Musk says, transfixed by CNBC on his iPhone. He speaks to his kids without looking up. "Guys, check this out: Tesla has the highest short position in the entire stock market. A \$9 billion short position."

His children lean over the phone, looking at a table full of numbers that I don't understand. So his 13-year-old, Griffin, explains it to me: "They're betting that the stock goes down, and they're getting money off that. But it went up high, so they lost an insane amount of money."

"They're jerks who want us to die," Musk elaborates. "They're constantly trying to make up false rumors and amplify any negative rumors. It's a really big incentive to lie and attack my integrity. It's really awful. It's..."

He trails off, as he often does when preoccupied by a thought. I try to help: "Unethical?"

"It's..." He shakes his head and struggles for the right word, then says softly, "Hurtful."

It is easy to confuse who someone is with what they do, and thus turn them into a caricature who fits neatly into a storybook view of the world. Our culture always needs villains and heroes, fools and geniuses, scapegoats and role models. However, despite opinions to the contrary, Elon Musk is not a robot sent from the future to save humanity. Nor is he a Silicon Valley savant whose emotional affect has been replaced with supercomputer-like intelligence. Over the course of nine months of reporting, watching Musk do everything from strategize Mars landings with his rocket-engineering team to plan the next breakthroughs with his artificial-intelligence experts, I learned he is someone far, far different from what his myth and reputation suggest.

The New York Times has called him “arguably the most successful and important entrepreneur in the world.” It’s an easy case to make: He’s probably the only person who has started four billion-dollar companies – PayPal, Tesla, SpaceX and Solar City. But at his core, Musk is not a businessman or entrepreneur. He’s an engineer, inventor and, as he puts it, “technologist.” And as a naturally gifted engineer, he’s able to find the design inefficiencies, flaws and complete oversights in the tools that power our civilization.

“He’s able to see things more clearly in a way that no one else I know of can understand,” says his brother, Kimbal. He discusses his brother’s love of chess in their earlier years, and adds, “There’s a thing in chess where you can see 12 moves ahead if you’re a grandmaster. And in any particular situation, Elon can see things 12 moves ahead.”



His children soon leave for the home of their mother, Musk's ex-wife Justine. "I wish we could be private with Tesla," Musk murmurs as they exit. "It actually makes us less efficient to be a public company."

What follows is ... silence. Musk sits at his desk, looking at his phone, but not typing or reading anything. He then lowers himself to the floor, and stretches his back on a foam roller. When he finishes, I attempt to start the interview by asking about the Tesla Model 3 launch a week earlier, and what it felt like to stand onstage and tell the world he'd just pulled off a plan 14 years in the making: to bootstrap, with luxury electric cars, a mass-market electric car.

The accomplishment, for Musk, is not just in making a \$35,000 electric car; it's in making a \$35,000 electric car that's so good, and so in-demand, that it forces other car manufacturers to phase out gas cars to compete. And sure enough, within two months of the launch, both GM and Jaguar Land Rover announced they were planning to eliminate gas cars and go all-electric.

Musk thinks for a while, begins to answer, then pauses. "Uh, actually, let me go to the restroom. Then I'll ask you to repeat that question." A longer pause. "I also have to unload other things from my mind."

Five minutes later, Musk still hasn't returned. Sam Teller, his chief of staff, says, "I'll be right back."

Several minutes after that, they both reappear and huddle nearby, whispering to each other. Then Musk returns to his desk.

"We can reschedule for another day if this is a bad time," I offer.

Musk clasps his hands on the surface of the desk, composes himself, and declines.

"It might take me a little while to get into the rhythm of things."

Then he heaves a sigh and ends his effort at composure. "I just broke up with my girlfriend," he says hesitantly. "I was really in love, and it hurt bad."

He pauses and corrects himself: "Well, she broke up with me more than I broke up with her, I think."

Thus, the answer to the question posed earlier: It felt unexpectedly, disappointingly, uncontrollably horrible to launch the Model 3. "I've been in severe emotional pain for the last few weeks," Musk elaborates. "Severe. It took every ounce of will to be able to do the Model 3 event and not look like the most depressed guy around. For most of that day, I was morbid. And then I had to psych myself up: drink a couple of Red Bulls, hang out with positive people and then, like, tell myself: 'I have all these people depending on me. All right, do it!'"

Minutes before the event, after meditating for pretty much the first time in his life to get centered, Musk chose a very telling song to drive onstage to: “R U Mine?” by the Arctic Monkeys.

Musk discusses the breakup for a few more minutes, then asks, earnestly, deadpan, “Is there anybody you think I should date? It’s so hard for me to even meet people.” He swallows and clarifies, stammering softly, “I’m looking for a long-term relationship. I’m not looking for a one-night stand. I’m looking for a serious companion or soulmate, that kind of thing.”

I eventually tell him that it may not be a good idea to jump right into another relationship. He may want to take some time to himself and figure out why his previous relationships haven’t worked in the long run: his marriage to writer Justine Musk, his marriage to actress Talulah Riley, and this new breakup with actress Amber Heard.

Musk shakes his head and grimaces: “If I’m not in love, if I’m not with a long-term companion, I cannot be happy.”

I explain that needing someone so badly that you feel like nothing without them is textbook codependence.

Musk disagrees. Strongly. “It’s not true,” he replies petulantly. “I will never be happy without having someone. Going to sleep alone kills me.” He hesitates, shakes his head, falters, continues. “It’s not like I don’t know what that feels like: Being in a big empty house, and the footsteps echoing through the hallway, no one there – and no one on the pillow next to you. Fuck. How do you make yourself happy in a situation like that?”

There’s truth to what Musk is saying. It is lonely at the top. But not for everyone. It’s lonely at the top for those who were lonely at the bottom.

“When I was a child, there’s one thing I said,” Musk continues. His demeanor is stiff, yet in the sheen of his eyes and the trembling of his lips, a high tide of emotion is visible, pushing against the retaining walls. “I never want to be alone.’ That’s what I would say.” His voice drops to a whisper. “I don’t want to be alone.”

A ring of red forms around his eyes as he stares forward and sits frozen in silence. Musk is a titan, a visionary, a human-size lever pushing forward massive historical inevitabilities – the kind of person who comes around only a few times in a century – but in this moment, he seems like a child who is afraid of abandonment. And that may be the origin story of Musk’s superambitions, but more on that later. In the meantime, Musk has something he’d like to show me.

“If you say anything about what you’re about to see, it would cost us billions,” he says, rising from his desk. “And you would be put in jail.”



The most interesting tourist attraction in Los Angeles County is one that's not in many guidebooks: It's in the otherwise-untouristed southwestern city of Hawthorne, around SpaceX. If you walk along Crenshaw Boulevard from Jack Northrop Boulevard to 120th Street, what you will see is a city of the future that's under construction. This is Musk city, an alternate reality, a triumph of futuristic imagination more thrilling than anything at a Disney park. On the west side of the street, a 156-foot-tall rocket towers above SpaceX headquarters, symbolizing Musk's dream of relatively low-cost interplanetary travel. This particular rocket booster was the first in human history to be launched into space, then recovered intact on Earth after separating, and then fired back into space. On the east side of the street, an employee parking lot has been dug up and turned into the first-ever tunnel for the Boring Company, Musk's underground-honeycomb solution to traffic jams and the future home of all his terrestrial transportation projects. Then, running for a mile beside Jack Northrop Boulevard, there's a white vacuum tube along the shoulder of the road. This is the test track for the Hyperloop, Musk's high-speed form of city-to-city travel. Taken together, the dreams of Musk city promise to connect the planet and the solar system in ways that will fundamentally change humanity's relationship to two of the most important facets of its reality: distance and time.

But there is a particular building in Musk city that few have visited, and this is where Musk takes me. It is the Tesla Design Studio, where he's slated to do a walkthrough of the Tesla Truck and other future vehicle prototypes with his team of designers and engineers.

Outside the door, a guard takes my phone and audio recorder, and I'm given an old-fashioned pen and paper to take notes on. Musk then continues into the building and reveals the Tesla Truck, which aims to help the trucking industry go green. (Musk has even been toying with creating a supersonic electric jet, with vertical takeoff and landing, in the future.) Four key members of the Tesla team are there – Doug Field, JB Straubel, Franz von Holzhausen, Jerome Guillen – and watch with anticipation as Musk explores a new configuration of the cab for the first time.

Guillen explains the idea behind the truck: “We just thought, ‘What do people want? They want reliability. They want the lowest cost. And they want driver comfort.’ So we reimaged the truck.”

This is a perfect example of the idea that Musk-inspired wannabe visionaries around the world worship like a religion: first principles thinking. In other words, if you want to create or innovate, start from a clean slate. Don’t accept any ideas, practices or standards just because everyone else is doing them. For instance, if you want to make a truck, then it must be able to reliably move cargo from one location to another, and you must follow existing laws of physics. Everything else is negotiable, including government regulations. As long as you remember that the goal isn’t to reinvent the truck, but to create the best one, whether or not it’s similar to past trucks.

As a result of this type of thinking, Musk is able to see an industry much more objectively than others who’ve been in the field their whole lives.

“I was literally told this is impossible and I’m a huge liar,” Musk says of the early days of Tesla. “But I have a car and you can drive it. This is not like a frigging unicorn. It’s real. Go for a drive. It’s amazing. How can you be in denial?”

An unfortunate fact of human nature is that when people make up their mind about something, they tend not to change it – even when confronted with facts to the contrary. “It’s very unscientific,” Musk says. “There’s this thing called physics, which is this scientific method that’s really quite effective for figuring out the truth.”

The scientific method is a phrase Musk uses often when asked how he came up with an idea, solved a problem or chose to start a business. Here’s how he defines it for his purposes, in mostly his own words:

1. Ask a question.
2. Gather as much evidence as possible about it.
3. Develop axioms based on the evidence, and try to assign a probability of truth to each one.

4. Draw a conclusion based on cogency in order to determine: Are these axioms correct, are they relevant, do they necessarily lead to this conclusion, and with what probability?⁵. Attempt to disprove the conclusion. Seek refutation from others to further help break your conclusion.⁶ If nobody can invalidate your conclusion, then you're probably right, but you're not certainly right.

"That's the scientific method," Musk concludes. "It's really helpful for figuring out the tricky things."

But most people don't use it, he says. They engage in wishful thinking. They ignore counterarguments. They form conclusions based on what others are doing and aren't doing. The reasoning that results is "It's true because I said it's true," but not because it's objectively true.

"The fundamental intention of Tesla, at least my motivation," Musk explains in his halting, stuttering voice, "was to accelerate the advent of sustainable energy. That's why I open-sourced the patents. It's the only way to transition to sustainable energy better."

"Climate change is the biggest threat that humanity faces this century, except for AI," he continues. "I keep telling people this. I hate to be Cassandra here, but it's all fun and games until somebody loses a fucking eye. This view [of climate change] is shared by almost everyone who's not crazy in the scientific community."

For the next 20 minutes, Musk examines the Tesla Truck. He comments first on the technical details, even ones as granular as the drawbacks and advantages of different types of welding. He then moves on to the design, specifically a driver-comfort feature that cannot be specified here, due to said threatened jail time.

"Probably no one will buy it because of this," he tells his team. "But if you're going to make a product, make it beautiful. Even if it doesn't affect sales, I want it to be beautiful."



According to Musk's best guess, our personalities might be 80 percent nature and 20 percent nurture. Whatever that ratio actually is, if you want to understand the future that Musk is building, it's essential to understand the past that built him, including his fears of human extinction and being alone.

For the first eight or so years of his life, Musk lived with his mother, Maye, a dietitian and model, and his father, Errol, an engineer, in Pretoria, South Africa. He rarely saw either of them.

"I didn't really have a primary nanny or anything," Musk recalls. "I just had a housekeeper who was there to make sure I didn't break anything. She wasn't, like, watching me. I was off making explosives and reading books and building rockets and doing things that could have gotten me killed. I'm shocked that I have all my fingers." He raises his hands and examines them, then lowers his digits. "I was raised by books. Books, and then my parents."

Some of those books help explain the world Musk is building, particularly Isaac Asimov's *Foundation* series. The books are centered around the work of a visionary named Hari Seldon, who has invented a scientific method of predicting the future based on crowd behavior. He sees a 30,000-year Dark Ages waiting ahead for humankind, and creates a plan that involves sending scientific colonies to distant planets to help civilization mitigate this unavoidable cataclysm.

"Asimov certainly was influential because he was seriously paralleling Gibbon's *Decline and Fall of the Roman Empire*, but he applied that to a sort of modern galactic empire," Musk explains. "The lesson I drew from that is you should try to take the set of actions that are likely to prolong civilization, minimize the probability of a dark age and reduce the length of a dark age if there is one."

Musk was around 10 at this time, and plunged in his own personal dark age. He'd recently made a move that would change his life. It was a wrong decision that came from the right place.

When his parents split up two years before, he and his younger siblings – Kimbal and Tosca – stayed with their mom. But, Musk recounts, "I felt sorry for my father, because my mother had all three kids. He seemed very sad and lonely by himself. So I thought, 'I can be company.'" He pauses while a movie's worth of images seem to flicker through his mind.

"Yeah, I was sad for my father. But I didn't really understand at the time what kind of person he was."

He lets out a long, sad sigh, then says flatly about moving in with Dad, "It was not a good idea."

According to Elon, Errol has an extremely high IQ – "brilliant at engineering, brilliant" – and was supposedly the youngest person to get a professional engineer's qualification in South Africa. When Elon came to live with him in Lone Hill, a suburb of Johannesburg, Errol was, by his own account, making money in the often dangerous worlds of construction and emerald mining –at times so much that he claims he couldn't close his safe.

"I'm naturally good at engineering that's because I inherited it from my father," Musk says. "What's very difficult for others is easy for me. For a while, I thought things were so obvious that everyone must know this."

Like what kinds of things?

"Well, like how the wiring in a house works. And a circuit breaker, and alternating current and direct current, what amps and volts were, how to mix a fuel and oxidizers to create an explosive. I thought everyone knew this."

But there was another side to Musk's father that was just as important to making Elon who he is. "He was such a terrible human being," Musk shares. "You have no idea." His voice trembles, and he discusses a few of those things, but doesn't go into specifics. "My dad will have a carefully thought-out plan of evil," he says. "He will plan evil."

Besides emotional abuse, did that include physical abuse?

"My dad was not physically violent with me. He was only physically violent when I was very young." (Errol countered via email that he only "smacked" Elon once, "on the bottom.")

Elon's eyes turn red as he continues discussing his dad. "You have no idea about how bad. Almost every crime you can possibly think of, he has done. Almost every evil thing you could possibly think of, he has done. Um..."

There is clearly something Musk wants to share, but he can't bring himself to utter the words, at least not on the record. "It's so terrible, you can't believe it."

The tears run silently down his face. "I can't remember the last time I cried." He turns to Teller to confirm this. "You've never seen me cry."

"No," Teller says. "I've never seen you cry."

The flow of tears stops as quickly as it began. And once more, Musk has the cold, impassive, but gentle stone face that is more familiar to the outside world.

Yet it's now clear that this is not the face of someone without emotions, but the face of someone with a lot of emotions who had been forced to suppress them in order to survive a painful childhood.

When asked about committing crimes, Musk's father said that he has never intentionally threatened or hurt anyone, or been charged with anything, except ... in this one case, he says he shot and killed three out of five or six armed people who broke into his home, and was later cleared of all charges on self-defense.

In his e-mail, Errol wrote: "I've been accused of being a Gay, a Misogynist, a Paedophile, a Traitor, a Rat, a Shit (quite often), a Bastard (by many women whose attentions I did not return) and much more. My own (wonderful) mother told me I am 'ruthless' and should learn to be more 'humane.'" But, he concluded, "I love my children and would readily do whatever for them."

As an adult, Musk, with the same optimism with which he moved in with his father as a child, moved his dad, his father's then-wife and their children to Malibu. He bought them a house, cars and a boat. But his father, Elon says, hadn't changed, and Elon severed the relationship.

“In my experience, there is nothing you can do,” he says about finally learning the lesson that his dad will never change. “Nothing, nothing. I wish. I’ve tried everything. I tried threats, rewards, intellectual arguments, emotional arguments, everything to try to change my father for the better, and he... no way, it just got worse.”

Somewhere in this trauma bond is the key to Musk’s worldview – creation against destruction, of being useful versus harmful, of defending the world against evil.

Things at school weren’t much better than life at home. There, Musk was brutally bullied – until he was 15 years old.

“For the longest time, I was the youngest and the smallest kid in the class because my birthday just happens to fall on almost the last day that they will accept you into school, June 28th. And I was a late bloomer. So I was the youngest and the smallest kid in class for years and years. ...The gangs at school would hunt me down – literally hunt me down!”

Musk put down the books and started learning to fight back – karate, judo, wrestling. That physical education, combined with a growth spurt that brought him to six feet by age 16, gave him some confidence and, as he puts it, “I started dishing it out as hard as they’d give it to me.”

When he got into a fight with the biggest bully at school and knocked him out with one punch, Musk noticed that the bully never picked on him again. “It taught me a lesson: If you’re fighting a bully, you cannot appease a bully.” Musk speaks the next words forcefully. “You punch the bully in the nose. Bullies are looking for targets that won’t fight back. If you make yourself a hard target and punch the bully in the nose, he’s going to beat the shit out of you, but he’s actually not going to hit you again.”

When he was 17, Musk left college and moved to his mother’s home country, Canada, later obtaining passports for his mother, brother and sister to join him there. His father did not wish him well, Musk recalls. “He said rather contentiously that I’d be back in three months, that I’m never going to make it, that I’m never going to make anything of myself. He called me an idiot all the time. That’s the tip of the iceberg, by the way.”



After Musk became successful, his father even took credit for helping him – to such a degree that it's listed as fact in Elon's Wikipedia entry. "One thing he claims is he gave us a whole bunch of money to start, my brother and I, to start up our first company [Zip2, which provided online city guides to newspapers]. This is not true," Musk says. "He was irrelevant. He paid nothing for college. My brother and I paid for college through scholarships, loans and working two jobs simultaneously. The funding we raised for our first company came from a small group of random angel investors in Silicon Valley."

Musk's career history decorates his desk. There's an item from nearly all of his companies, even a mug for X.com, the early online bank he started, which became PayPal. The sale of Zip2 resulted in a \$22 million check made out directly to Musk, which he used in part to start X.com. With the roughly \$180 million post-tax amount he made from the sale of PayPal, he started SpaceX with \$100 million, put \$70 million into Tesla, invested \$10 million into Solar City, and saved little for himself.

One of the misunderstandings that rankles Musk most is being pigeonholed and narrowcast, whether as the real-life Tony Stark or the second coming of Steve Jobs. When, at a photo shoot, he was asked to wear a black turtleneck, the trademark garb of Jobs, he bristled. "If I was dying and I had a turtleneck on," he tells me, "with my last dying breath, I would take the turtleneck off and try to throw it as far away from my body as possible."

So what is Musk about?

“I try to do useful things,” he explains. “That’s a nice aspiration. And useful means it is of value to the rest of society. Are they useful things that work and make people’s lives better, make the future seem better, and actually are better, too? I think we should try to make the future better.”

When asked to define “better,” Musk elaborates, “It would be better if we mitigated the effects of global warming and had cleaner air in our cities and weren’t drilling for vast amounts of coal, oil and gas in parts of the world that are problematic and will run out anyway.

“And if we were a multiplanetary species, that would reduce the possibility of some single event, man-made or natural, taking out civilization as we know it, as it did the dinosaurs. There have been five mass-extinction events in the fossil record. People have no comprehension of these things. Unless you’re a cockroach or a mushroom – or a sponge – you’re fucked.” He laughs sharply. “It’s insurance of life as we know it, and it makes the future far more inspiring if we are out there among the stars and you could move to another planet if you wanted to.”

This, then, is the ideology of Musk. And though basic, it’s actually very rare. Think of the other names that one associates with innovation this century: They’re people who built operating systems, devices, websites or social-media platforms. Even when it didn’t start out that way, the ideology in most cases soon became: How can I make my company the center of my users’ world? Consequently, social-media sites like Facebook and Twitter use a number of tricks to activate the addictive reward centers of a user’s brain.

If Musk’s employees suggested doing something like this, he’d probably look at them like they were crazy. This type of thinking doesn’t compute. “It’s really inconsistent to not be the way you want the world to be,” he says flatly, “and then through some means of trickery, operate according to one moral code while the rest of the world operates according to a different one. This is obviously not something that works. If everyone’s trying to trick everyone all the time, it’s a lot of noise and confusion. It’s better just to be straightforward and try to do useful things.”

He discusses building a permanent moon base, and further funding SpaceX by creating passenger rockets capable of traveling to any city in the world in less than an hour, a form of transport he calls “Earth-to-Earth.” I ask if there’s anything that he believes works that surprises people.

“I think being precise about the truth works. Truthful and precise. I try to tell people, ‘You don’t have to read between the lines with me. I’m saying the lines!’”

On another occasion, I watch Musk at a weekly SpaceX engineering-team meeting, where eight experts sit around a table in high-backed red chairs, showing Musk a PowerPoint with the latest updates to the Mars spaceship design. And while Musk keeps pace on technical

details with some of the most brilliant minds in aerospace, he also adds an element that goes beyond logistics and engineering.

“Make sure it doesn’t look ugly or something,” he advises at one point. Then, later, “The aesthetics of this one are not so great. It looks like a scared lizard.” And, in a characteristically wry moment, “When you land on Mars, you want the list of what you have to worry about to be small enough that you’re not dead.”

Overall, there’s a theme to Musk’s feedback: First, things have to be useful, logical and scientifically possible.

Then he looks to improve efficiency on every level: What are people accepting as an industry standard when there’s room for significant improvement?

From there, Musk pushes for the end product to be aesthetically beautiful, simple, cool, sleek (“He hates seams,” says one staffer) and, as Musk puts it at one point in the meeting, “awesome.”

Throughout this process, there’s an additional element that very few companies indulge in: personalization. This usually involves Musk adding Easter eggs and personal references to the products, such as making the Tesla sound-system volume go to 11 (in homage to *Spinal Tap*) or sending a “secret payload” into space in his first Dragon launch that turned out to be a wheel of cheese (in homage to Monty Python).

Beyond all this, most maddening or exciting for Musk’s employees, depending on which one you ask, is the time scale on which he often expects work to be done. For example, one Friday when I was visiting, a few SpaceX staff members were frantically rushing back and forth from the office to the parking lot across the street. It turns out that during a meeting, he asked them how long it would take to remove staff cars from the lot and start digging the first hole for the Boring Company tunnel. The answer: two weeks.

Musk asked why, and when he gathered the necessary information, he concluded, “Let’s get started today and see what’s the biggest hole we can dig between now and Sunday afternoon, running 24 hours a day.” Within three hours, the cars were gone and there was a hole in the ground.

On the other hand, one thing Musk is notorious for is setting ambitious deadlines that he often can’t meet. The Roadster, the Model S and the Model X were all delayed from his original timeline, and now the Model 3 – with its nearly half-a-million-person-long waiting list – is experiencing its own production delays. There are many reasons for this, but Musk summarizes: “Better to do something good and be late than bad and be early.” So expect Musk to get it done, just not on time. Because if he can’t do it, he won’t pretend otherwise.



“I expect to lose,” Musk says. He’s in a three-story building in San Francisco that has only recently been furnished. It used to belong to Stripe, the credit-card payment processor, but now belongs to Musk, who’s housing two of his companies there: Neuralink and OpenAI.

These are visions of what Tesla or SpaceX may have looked like when they first began. A small group of excited people working with limited resources to hit a distant, ambitious target. But unlike Tesla and SpaceX, there aren’t anything close to road maps toward these goals, nor are they so clear-cut.

OpenAI is a nonprofit dedicated to minimizing the dangers of artificial intelligence, while Neuralink is working on ways to implant technology into our brains to create mind-computer interfaces.

If it sounds like those are contradictory ideas, think again. Neuralink allows our brains to keep up in the intelligence race. The machines can’t outsmart us if we have everything the machines have plus everything we have. At least, that is if you assume that what we have is actually an advantage.

It’s an unusual day at the office: Musk is showing a documentary about artificial intelligence to the Neuralink staff. He stands in front of them as they sit splayed on couches and chairs, and lays out the grim odds of his mission to make AI safe: “Maybe there’s a five to 10 percent chance of success,” he says.

The challenge he's up against with OpenAI is twofold. First, the problem with building something that's smarter than you is ... that it's smarter than you. Add to that the fact that AI has no remorse, no morality, no emotions – and humanity may be in deep shit. This is the good son's second chance against the remorseless father he couldn't change.

The other challenge is that OpenAI is a nonprofit, and it's competing with the immense resources of Google's DeepMind. Musk tells the group he in fact invested in DeepMind with the intention of keeping a watchful eye on Google's AI development.

"Between Facebook, Google and Amazon – and arguably Apple, but they seem to care about privacy – they have more information about you than you can remember," he elaborates to me. "There's a lot of risk in concentration of power. So if AGI [artificial general intelligence] represents an extreme level of power, should that be controlled by a few people at Google with no oversight?"

"Sleep well," Musk jokes when the movie ends. He then leads a discussion about it, writing down some ideas and bluntly dismissing others. As he's speaking, he reaches into a bowl, grabs a piece of popcorn, drops it in his mouth and starts coughing.

"We're talking about threats to humanity," he mutters, "and I'm going to choke to death on popcorn."

It is 9 p.m. on a Thursday night, and I'm waiting in the foyer of Musk's Bel Air home for our final interview. He walks down the stairs a few minutes later, wearing a T-shirt depicting Mickey Mouse in space. A tall blond woman follows him down the stairs.

He is, true to his words, not alone.

The woman, it turns out, is Talulah Riley, his second wife. They met in 2008, and Musk proposed after 10 days together. They married in 2010, then divorced two years later, then remarried the following year, then filed for divorce again, then withdrew the filing, then refiled for divorce and finally followed through with it.

Musk suggests doing something rare for him: drinking. "My alcohol tolerance is not very high," he says. "But I tend to be a fuzzy bear when I drink. I go happy fuzzy."

He pours two glasses of whiskey for us, and the three of us adjourn to his living room, where there's a mechanical Edison phonograph, an Enigma machine and a short-wave radio from World War I on display.

During the interview, Riley lounges on the couch nearby, half paying attention to the conversation, half paying attention to her phone.

Musk is in a different mood than he was at SpaceX, and that's something that those who've come to know Musk observe. One moment, he may be reciting favorite lines from an animated TV show he just saw, the next he may be curtly giving detailed instructions, the next he may be ignoring you while lost in a thought, the next he may be asking for your advice on a problem, the next he may be breathless with laughter while riffing on a humorous tangent for five minutes, the next he may be acting as if you've both never met. And through it all, you learn not to take it personally, because chances are that it has nothing to do with you.

We start off talking, or at least with me trying to talk, about AI, because a few weeks earlier, Musk had tweeted, "Competition for AI superiority at national level most likely cause of WW3 imo."

But when I ask him about that, Musk gets testy. "I don't have all the answers. I'm not saying that I have all the fucking answers. Let me be really clear about that. I'm trying to figure out the set of actions I can take that are more likely to result in a good future. If you have suggestions in that regard, please tell me what they are."

Riley chimes in: "I think just the way it gets couched is that 'Elon Musk says we're all gonna die,' as opposed to 'Hey, let's have some regulation.'"

Musk, it soon becomes clear, is not in the mood to talk about his work. Instead, he has some advice he'd like to offer to the world from his personal experience: "I find one learns lessons in the course of life," he begins with a wry half-smile. "And one lesson I've learned is, don't tweet on Ambien. That's on the record: Tweeting on Ambien is unwise. You may regret it."

Musk grabs a coffee-table book published by *The Onion* and starts leafing through it, laughing hysterically. "In order to understand the essential truth of things," he theorizes, "I think you can find it in *The Onion* and occasionally on Reddit."

Afterward, he asks excitedly, "Have you ever seen *Rick and Morty*?" And the conversation bounces from that animated show to *South Park* to *The Simpsons* to the book *Hitchhiker's Guide to the Galaxy*.

One of the lines from *Hitchhiker's*, Musk says, ended up being Musk Family Rule Number One: "Don't panic."

"The boys were quite skittish about all kinds of things," Riley explains.

"That's our other rule," Musk continues. "Safety third. There's not even a Rule Number Two. But even though there's nothing in second place, safety is not getting promoted to number two."

We're interrupted by Teller, Musk's chief of staff, who informs him that as we were talking, the Hawthorne City Council ended an hours-long debate with a 4-to-1 vote allowing Musk to burrow his tunnel two miles into the city.

"Good," Musk says. "Now we can dig past our own property line. Dig like fiends!"

He laughs at the expression, and I understand now that Musk didn't have me over to talk about his projects and vision. There's nothing to be gained from talking about the problems of science with someone who doesn't understand them. At the end of the day, he just wants to unwind and laugh about the world he's trying to improve.

I

leave his home still hearing his chuckles in the doorway, and hoping that when the Mars colony builds its first statues of Musk, they're not of a stiff man with a tight-lipped expression looking out into space, but of a fuzzy bear.

EXHIBIT E

(filed under seal)

EXHIBIT F

(filed under seal)

EXHIBIT G

(filed under seal)

EXHIBIT H

(filed under seal)

EXHIBIT I

Tesla Stock Prices
Open, Close and 10-Min Intervals
August 7, 2018 - August 17, 2018



EXHIBIT J

(filed under seal)

EXHIBIT K

Tesla  @Tesla · Aug 13, 2018
Update on Taking Tesla Private



TESLA

Update on Taking Tesla Private
As I announced last Tuesday, I'm considering taking Tesla private because I believe it could be good for our shareholders, enable Tesla t...
 tesla.com

291 2K 9.9K 

Elon Musk 
@elonmusk

Replying to [@Tesla](#)

I'm excited to work with Silver Lake and Goldman Sachs as financial advisors, plus Wachtell, Lipton, Rosen & Katz and Munger, Tolles & Olson as legal advisors, on the proposal to take Tesla private

6:02 PM · Aug 13, 2018 · Twitter for iPhone

EXHIBIT L

(filed under seal)

EXHIBIT M



Equity Research

Industrials | U.S. Autos & Auto Parts
14 August 2018

Tesla, Inc.

Time for even ‘blue pillers’ to cash out?

Tesla’s blog post on Monday 8/13/18 makes it clearer buyout is still in early stages, and board has much work to do; maintain UW: Yesterday Elon Musk’s blog post made it clear – as we suspected last week – that any go-private transaction still had numerous hurdles in front of it. While we’re not positive that potential private investors will see our ‘red pill’ logic, and hence a successful deal would have upside risk, we reiterate our UW and \$210 price target. What that means is that taking money off the table at current prices could be better than risking a deal falling through (and litigation risk) and if not now, that asking for the \$420 in cash, as per Elon Musk tweet, is a better deal than illiquid equity in a private Tesla.

Tesla is not the only avenue for SWFs to diversify away from oil. While we don’t dispute the bull argument that there are trillions of dollars in SWFs backed by oil receipts, we would argue that the growing EV market has numerous other public and private investment opportunities that provide a hedge against the ‘peak oil’ argument.

Institutional investors need to weigh the illiquidity and funding disadvantages of private stakes with the benefits of management focus. Institutional investors may also need to consider the lack of transparency and eventual liquidity inherent in a private stake.

TSLA: Quarterly and Annual EPS (USD)

	2017		2018		2019		Change y/y		
FY Dec	Actual	Old	New	Cons	Old	New	Cons	2018	2019
Q1	-1.33A	-3.36A	-3.36A	-3.35A	N/A	N/A	0.51E	N/A	N/A
Q2	-1.33A	-3.06A	-3.06A	-3.06A	N/A	N/A	0.89E	N/A	N/A
Q3	-2.92A	-0.13E	-0.13E	-0.40E	N/A	N/A	1.36E	96%	N/A
Q4	-3.05A	-0.43E	-0.43E	0.74E	N/A	N/A	1.78E	86%	N/A
Year	-8.67A	-6.24E	-6.24E	-5.50E	-2.47E	-2.47E	2.89E	28%	60%
P/E	N/A		N/A		N/A				

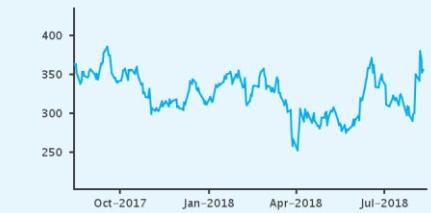
Source: Barclays Research.

Consensus numbers are from Thomson Reuters received on 13-Aug-2018; 13:35 GMT

Stock Rating	UNDERWEIGHT
	Unchanged
Industry View	NEUTRAL
	Unchanged
Price Target	USD 210.00
	Unchanged
Price (13-Aug-2018)	USD 356.41
Potential Upside/Downside	-41.1%
Tickers	TSLA
Market Cap (USD mn)	60801
Shares Outstanding (mn)	170.59
Free Float (%)	74.81
52 Wk Avg Daily Volume (mn)	7.2
52 Wk Avg Daily Value (USD mn)	N/A
Dividend Yield (%)	N/A
Return on Equity TTM (%)	-44.37
Current BVPS (USD)	22.91

Source: Thomson Reuters

Price Performance	Exchange-Nasdaq
52 Week range	USD 389.61-244.59



Link to Barclays Live for interactive charting

U.S. Autos & Auto Parts

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PLEASE SEE ANALYST CERTIFICATION(S) AND IMPORTANT DISCLOSURES BEGINNING ON PAGE 7.

Barclays | Tesla, Inc.

U.S. Autos & Auto Parts						Industry View: NEUTRAL
Tesla, Inc. (TSLA)						Stock Rating: UNDERWEIGHT
Income statement (\$mn)	2017A	2018E	2019E	2020E	CAGR	Price (13-Aug-2018)
Revenue	11,759	20,551	28,681	33,523	41.8%	USD 356.41
EBITDA (adj)	471	1,282	1,971	3,007	85.5%	Price Target
EBIT (adj)	-1,165	-681	-220	626	N/A	Why Underweight? In spite of an impressive set of products and early leadership in the field of vehicle electrification, we see Tesla shares as overvalued. We believe the stock is not accounting for the risks and challenges inherent in Tesla's lofty growth ambitions.
Pre-tax income	-3,316	-2,745	-3,063	-2,566	N/A	
Net income (adj)	-1,437	-1,189	-453	289	N/A	
EPS (adj) (\$)	-8.67	-6.24	-2.47	1.51	N/A	
Diluted shares (mn)	166	174	183	192	5.0%	
DPS (\$)	0.00	0.00	0.00	0.00	N/A	
Margin and return data					Average	
EBITDA (adj) margin (%)	-6.0	3.0	2.1	4.0	0.8	
EBIT (adj) margin (%)	-21.3	-6.9	-5.9	-3.5	-9.4	
Pre-tax margin (%)	-31.1	-13.9	-11.2	-8.1	-16.1	
Net (adj) margin (%)	-31.4	-14.0	-9.5	-6.6	-15.4	
ROIC (%)	-22.9	-9.5	-7.8	-6.5	-11.7	
ROA (%)	-10.1	-6.3	-5.7	-3.1	-6.3	
ROE (%)	-51.1	-27.5	-19.4	-11.1	-27.3	
Balance sheet and cash flow (\$mn)					CAGR	
Tangible fixed assets	10,028	11,307	12,411	13,212	9.6%	
Cash and equivalents	3,368	3,701	920	7,872	32.7%	
Total assets	28,655	32,343	31,293	40,920	12.6%	
Short and long-term debt	7,755	8,953	9,294	10,379	10.2%	
Other long-term liabilities	2,443	2,607	2,607	2,607	2.2%	
Total liabilities	23,023	24,962	22,028	29,284	8.3%	
Net debt/(funds)	-4,387	-5,252	-8,374	-2,506	N/A	
Shareholders' equity	5,632	7,381	9,265	11,636	27.4%	
Change in working capital	-1,473	-235	2,881	-4,884	N/A	
Cash flow from operations	-61	296	-2,468	6,921	N/A	
Capital expenditure	-3,415	-2,665	-3,295	-3,181	N/A	
Free cash flow	-2,077	-2,407	-5,495	3,758	N/A	
Valuation and leverage metrics					Average	
P/E (adj) (x)	N/A	N/A	N/A	N/A	N/A	Low
EV/EBITDA (adj) (x)	113.4	41.0	25.1	18.4	49.5	Downside
P/Sales (x)	4.9	2.8	2.0	1.7	2.9	
P/BV (x)	10.5	8.4	7.1	5.9	8.0	
Dividend yield (%)	0.0	0.0	0.0	0.0	0.0	
Total debt/capital (%)	57.9	54.8	50.1	47.1	52.5	
Net debt/EBITDA (adj) (x)	6.9	-8.8	-14.6	-2.0	-4.6	
Selected operating metrics						
Gross margin (%)	10.9	11.3	12.6	13.0		
FCF/NI (x)	0.7	1.2	3.1	-2.9		
Model S shipments	54,786	46,170	42,476	39,078		
Model S ASP (\$)	99.8	89.2	87.4	85.7		
Model X shipments	46,631	47,745	50,132	51,636		
Model X ASP (\$)	105.3	101.8	100.2	98.7		

Source: Company data, Barclays Research
Note: FY End Dec

Thoughts on going private

Tesla's Monday update makes it clear the process is in early stages

Last week, Elon Musk posted several tweets/replies that made it seem that a go-private deal at \$420/share was very close. These tweets included¹:

Am considering taking Tesla private at \$420. Funding secured.

*My hope is *all* current investors remain with Tesla even if we're private. Would create special purpose fund enabling anyone to stay with Tesla. Already do this with Fidelity's SpaceX investment.*

Shareholders could either to sell at 420 or hold shares & go private

Def no forced sales. Hope all shareholders remain. Will be way smoother & less disruptive as a private company. Ends negative propaganda from shorts.

At the time, we expressed some scepticism that the funding was fully secured, and that individual investors could remain holding private shares (see [Tesla: Musing about going private is the latest strange twist](#); 7 August 2018).

And on Monday 13 August 2018, an updated blog post on the Tesla site² from Mr. Musk made it clear that the funding was in its very early stages. While we leave it to the lawyers in the various class action suits to debate the scienter requirement as it pertains to the original statement “funding secured”, the blog post made it clear that:

- The Aug 7 tweet was based on a July 31 meeting with a “Managing Director” of the Saudi Arabian sovereign wealth fund and followed meetings “going back almost two years” over taking Tesla private.
- At the July 31 meeting “the Managing Director of the fund expressed regret that I had not moved forward previously on a going private transaction with them, and he strongly expressed his support for funding a going private transaction for Tesla at this time. I understood from him that no other decision makers were needed and that they were eager to proceed.”
- Based on this, Mr. Musk believed that there was “no question that a deal with the Saudi sovereign fund could be closed, and that it was just a matter of getting the process moving. This is why I referred to “funding secured” in the August 7th announcement.”
- The conversation turned to the need for more typical investment due diligence: “He has expressed support for proceeding subject to financial and other due diligence and their internal review process for obtaining approvals. He has also asked for additional details on how the company would be taken private, including any required percentages and any regulatory requirements.”
- And of course, as in any go private transaction, an independent board committee would need to review a detailed proposal and, if approved, get required regulatory approvals before presenting the plan to shareholders for a vote.

So based on this, we would argue that generously speaking, the deal making process is in the early stages, with the need to recruit additional investors as well as undergo due diligence. And with the prospect of foreign sovereign wealth funds, CFIUS approval might be necessary (depending on the extent of foreign control).

¹ See <https://twitter.com/elonmusk>

² <https://www.tesla.com/blog/update-taking-tesla-private>

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And we would also note that the updated blog provides no update on how a transaction could be structured to allow existing retail shareholders to roll over into a private Tesla (something we are sceptical of how Tesla could avoid the caps on the number of non-accredited, non-employee shareholders that creates the threshold for SEC filings).

We agree there's plenty of SWF money

As we understand, Mr. Musk believes that most investors would roll over (we have our doubts, see next section) and that only 1/3rd of shares would need to be paid off for with cash. We also would stipulate in favour of the bulls that there are a number of large oil-backed sovereign wealth funds (SWFs) that may view Tesla as a hedge against 'peak oil' (see Appendix). In addition to the Saudi Arabia Public Investment Fund, the oil-rich funds include ~\$1trillion in Norway, another \$1trillion between UAE and Dubai, not to mention numerous other funds (e.g. Kazakhstan with more than \$100bn).

But we would point out that Tesla is by no means the only way to invest in an electric vehicle (EV) future. A SWF could buy any number of private Chinese EV companies, especially if China is going to be the most rapid adapter of electric vehicles. Or it could invest in battery tech or precursor metals like lithium and cobalt. So as glamorous as Tesla seems to be as a holding, we're not sure if it's the best much less the only way to diversify away from oil.

Why it does – and doesn't - makes sense to go private

In the last week since Elon Musk's tweet about going private with "funding secured", we have found common ground for the first time between the "blue pill" bullish boosters of TSLA our "red pill" bearish view (for a description of our red pill/blue pill thesis see lead - *Red-pilling the Tesla bull case* – 4/6/17; and a follow-up – *Challenging the blue pill pillars of faith*, 3/29/18). We actually agree with the bulls that Tesla might be better off as a private company. Mr. Musk would be free to build his vision for a sustainable transportation and energy company without the distraction of our quarterly analyst calls, rude Twitter short sellers/trolls or the bad vibes from seeing a stock price occasionally go down. But as emotionally satisfying as this might be, SWFs who are contemplating putting in fresh cash, and especially institutional investors who are contemplating exchanging liquid TSLA exchange-traded shares should also consider the downsides of private ownership, which include:

- The need for additional funding – either just to support expansion (blue pill view) or to support expansion as well as operating losses (our view). While Tesla bulls and management see 3Q18 as the turning point for a sustainable, self-supporting company, even the bulls would agree that Tesla will need to tap external markets for capital for additional gigafactories. Indeed, on the 2Q18 release Tesla said that it would seek debt financing in China to finance a China factory. And in our model, we see ongoing operating losses (in part by the need to grow R&D for new models and SG&A to support higher volumes) that could require additional fundraising.
- Lack of publically filed financials, and 'crowd sourced' analysis of those filings. While Tesla bears get criticized for their tweets and Seeking Alpha articles (which lead one writer to cease and desist allegedly under pressure from Tesla³), we would argue that the free flow of both bullish and bearish commentary on the name can help investors in their own analyses.
- Lack of liquidity around the position. While locking in investors is good from the CEO's point of view to avoid a short-term focus, nevertheless institutional investors would lose the ability to pivot away from Tesla should their view on auto sales, EV margins change

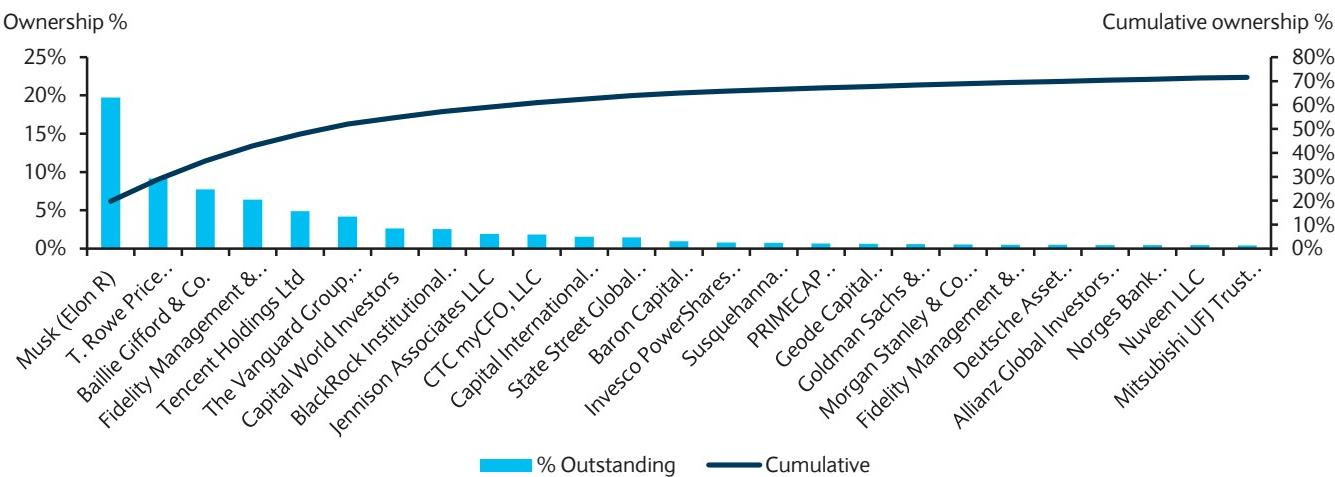
³ See *je Suis Montana Skeptic*, <https://ftalphaville.ft.com/2018/07/27/1532692760000/je-suis-Montana-Skeptic/>

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or if fund-drawdowns create the need to return cash to their investors (which could lead to an over-concentrated position within the fund).

We agree that the institutional ownership of Tesla is highly concentrated, with the top 10 holders beyond Musk holding ~43% (thus ~63% with Musk), although this may change when all the 2Q filings are in). But we are less clear on how each fund has latitude to hold private investments. Fidelity for example doesn't allow its managers to have more than 10% of a fund's assets in private companies.

FIGURE 1
Tesla ownership



Source: Thomson Reuters, Barclays Research

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Appendix

FIGURE 2

Top 40 sovereign wealth funds

Country	Name	Assets (USD bn)	Origin
Norway	Government Pension Fund - Global	\$1,035	Oil
China	China Investment Corporation	\$941	Non-Commodity
UAE	Abu Dhabi Investment Authority	\$683	Oil
Kuwait	Kuwait Investment Authority	\$592	Oil
Hong Kong	Hong Kong Monetary Authority Investment Portfolio	\$523	Non-Commodity
Saudi Arabia	SAMA Foreign Holdings	\$494	Oil
China	SAFE Investment Company	\$441	Non-Commodity
Singapore	Government of Singapore Investment Corporation	\$390	Non-Commodity
Singapore	Temasek Holdings	\$375	Non-Commodity
Qatar	Qatar Investment Authority	\$320	Oil
China	National Social Security Fund	\$295	Non-Commodity
Saudi Arabia	Public Investment Fund	\$250	Oil
UAE	Investment Corporation of Dubai	\$230	Non-Commodity
South Korea	Korea Investment Corporation	\$134	Non-Commodity
UAE	Mubadala Investment Company	\$125	Oil
UAE	Abu Dhabi Investment Council	\$123	Oil
Australia	Australian Future Fund	\$105	Non-Commodity
Iran	National Development Fund of Iran	\$91	Oil
Russia	National Welfare Fund	\$66	Oil
Libya	Libyan Investment Authority	\$66	Oil
U.S.	Alaska Permanent Fund Corporation	\$62	Oil
Kazakhstan	Samruk-Kazyna JSC	\$61	Non-Commodity
Kazakhstan	Kazakhstan National Fund	\$58	Oil
Brunei	Brunei Investment Agency	\$40	Oil
Turkey	Turkey Wealth Fund	\$40	Non-commodity
Malaysia	Khazanah Nasional	\$39	Non-Commodity
U.S.	Texas Permanent School Fund	\$38	Oil
UAE	Emirates Investment Authority	\$34	Oil
Azerbaijan	State Oil Fund	\$33	Oil
New Zealand	New Zealand Superannuation Fund	\$29	Non-Commodity
U.S.	New Mexico State Investment Council	\$20	Oil
Oman	State General Reserve Fund	\$18	Oil
U.S.	Permanent University Fund	\$17	Oil
East Timor	Timor-Leste Petroleum Fund	\$17	Oil
Chile	Social and Economic Stabilization Fund	\$15	Copper
Canada	Alberta's Heritage Fund	\$13	Oil
Russia	Russian Direct Investment Fund	\$13	Non-Commodity
Bahrain	Mumtalakat Holding Company	\$11	Non-Commodity
Chile	Pension Reserve Fund	\$9	Copper
Ireland	Ireland Strategic Investment Fund	\$9	Non-Commodity
	<i>Total 40</i>	\$7,854	
	Others	\$92	
	Total	\$7,946	
	Total O&G related	\$4,066	

Source: Sovereign Wealth Fund Institute

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Tesla, Inc. (TSLA, 13-Aug-2018, USD 356.41), Underweight/Neutral, CD/CE/D/E/FA/FB/J/K/L/M

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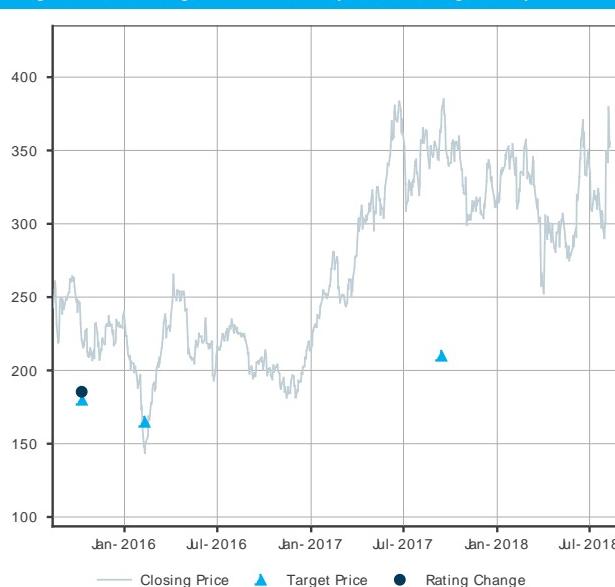
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USD 356.41 (13-Aug-2018)

Stock Rating

Industry View

UNDERWEIGHT**NEUTRAL****Currency=USD**

Publication Date	Closing Price	Rating	Adjusted Price Target
13-Sep-2017	366.23		210.00
09-Feb-2016	148.25		165.00
09-Oct-2015	220.69	Underweight	180.00

On 13-Aug-2015, prior to any intra-day change that may have been published, the rating for this security was Equal Weight, and the adjusted price target was 190.00.

Source: Thomson Reuters, Barclays Research

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EXHIBIT N

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

In re Tesla, Inc. Securities Litigation)
) Case No. 18-CV-04865 (EMC)
)
)
_____)

REBUTTAL REPORT OF DANIEL R. FISCHEL

December 8, 2021

B. Dr. Hartzmark Ignores the Fact that Market Participants Understood from the Beginning that Mr. Musk's Proposal Lacked Details and Was Uncertain

15. Without any reliable analysis, Dr. Hartzmark merely “assume[s] … that the finder of fact will determine that [the entire Class Period] is filled with numerous statements and partial corrective disclosures revealing curative information,” in particular “[t]he failure to offer meaningful, reliable, and clear information [about the potential going private transaction that] steadily contributed to and increased skepticism about the true (and concealed) status of the proposed transaction and the veracity of the Musk Tweets,” which “throughout the Class Period proximately caused the artificially inflated price of Tesla’s securities to decline.”²³ However, he ignores the fact that market participants understood from the beginning that Mr. Musk’s proposal lacked details and quickly understood that it was uncertain.

16. Indeed, analyst commentary noted the uncertainty and lack of details regarding the potential transaction immediately after the Musk Tweets. For example, a Bank of America Merrill Lynch report on this date states: “It should be noted that the proposal/transaction is far from finalized, and would require a shareholder vote. More importantly, although TSLA did confirm a potential privatization through Musk’s statement, no theoretical transaction method, funding plan, or structure was outlined, and there is still some skepticism over whether such a transaction would ultimately (or even could) be executed.”²⁴

17. Additional commentary by market participants following the initial tweets also demonstrates that there was substantial doubt that Mr. Musk could or would take Tesla private at \$420 per share. For example:

- An August 7, 2018 *Bloomberg First Word* article states: “Investors and analysts,

²³ Hartzmark Report ¶¶ 4 n.9, 13 & 39 (emphasis in original). As noted *supra* ¶ 10 n.12, Dr. Hartzmark’s event study analysis does not associate the “numerous statements and partial corrective disclosures revealing curative information” with statistically significant price declines.

²⁴ John Murphy, Aileen Smith, and Yarden Amsalem, “Shorts may be burned for now … but buyer beware,” Bank of America Merrill Lynch, August 7, 2018.

even Musk himself, all seemed a little uncertain whether this will happen. The same with the market: Tesla shares closed up 11% to \$379.57. That was a great run, but still about \$40 shy of what Musk would want to offer shareholders to get a deal done. Shares were coming down by about \$5 in after-market trades.”²⁵

- An August 7, 2018 Barclays report states: “... we are skeptical about the funding and proposed structure.”²⁶
- An August 7, 2018 Morningstar report states: “If a deal is announced and we think its execution is more likely than not, we will raise our fair value estimate to the deal price, but for now we are leaving our fair value estimate of \$179 in place.”²⁷
- An August 8, 2018 Bernstein analyst report titled “Tesla: Going private? Who knows... does Elon?” states: “On the other hand, Musk’s tweets that ‘Investor support is confirmed’ and ‘Funding secured’ would suggest that he has spoken with some few stakeholders. Here, as with nearly everything else, we remain with more questions than answers. What does Musk mean by ‘investor support’ – has he already gotten a go-ahead from Tesla’s major institutional shareholders, and in what form? If so, why is the deal still ‘contingent on a shareholder vote’ (as he noted within the same tweet)? Did Tesla’s board of directors or management team already know about these plans? If so, why was the announcement so abrupt and seemingly ‘unofficial’? Has Musk run his plan of maintaining retail shareholders within a private Tesla by his legal team?”²⁸
- An August 8, 2018 JPMorgan report “assign[s] only a 50% probability to [a going private] scenario in our updated valuation.”²⁹
- An August 8, 2018 PiperJaffray report states: “We note that many important details are still unknowable, given the precedent-setting nature of this proposal as well as the vague verbiage used to describe it. As a result, we believe this deal is unlikely to succeed in the very near-term, if it succeeds at all. We also note that, for true believers with a multi-year time horizon, the suggested go private valuation of \$420/share is probably unpalatable (especially if they cannot invest in illiquid, private securities), but gaining 50%+ shareholder approval may nonetheless prove easier than funding and structuring the deal in a way that is legal and executable.”³⁰
- An August 8, 2018 Morgan Stanley analyst report is titled: “Elon Musk May

²⁵ “Crazy Ride for Tesla Watchers as Musk Tweets: TOPLive Takeaways,” *Bloomberg First Word*, August 7, 2018.

²⁶ Brian A. Johnson, “Musing about going private is the latest strange twist,” Barclays, August 7, 2018.

²⁷ David Whiston, “Musk Tweets Tesla May Go Private at \$420 a Share but Stockholders May Not Have to Sell at That Price,” Morningstar, August 7, 2018.

²⁸ A.M. (Toni) Sacconaghi, Jr. “Tesla: Going private? Who knows... does Elon?,” Bernstein, August 8, 2018.

²⁹ Ryan Brinkman, David L Kelley, and Aayush Gupta, “Raise PT to Reflect Possible Go-Private Offer, But Remain Underweight on Chance Shares Could Again Trade on Fundamentals,” J.P. Morgan, August 8, 2018.

³⁰ Alexander E. Potter and Winnie Dong, “Questions Remain; Overweight-rated TSLA Not Going Private Anytime Soon,” PiperJaffray, August 8, 2018.

Want Tesla Private: We Question the Feasibility of a Potential Transaction”³¹

18. In particular, analysts expressed concerns about the deal structure. For example:
 - An August 7, 2018 Barclays report states: “And not clear how public shareholders stay in a private company. Musk promised that existing shareholders ‘can stay investors in a private Tesla’ – but we’re not clear how that would work under current registration rules/caps on non-accredited and total investors (the JOBS act requirement) – although Musk hinted at a special purpose vehicle structure that might be able to avoid the caps.”³²
 - An August 7, 2018 Cowen analyst report states: “The capital structure is the most uncertain element about this development revealed via Twitter, as an LBO model would not work if existing investors were to remain as Mr. Musk claims they will. It is also unclear if current publicly traded debt would remain public, which would in turn continue to require financial reporting in the public domain and make the company subject to the quarterly scrutiny it is trying to avoid.”³³
 - An August 7, 2018 RBC Capital Markets report states: “... some of [the Company’s stock] holders may not be able to hold Tesla (or as much as they currently hold) should Tesla go private. A preliminary review of some of the big mutual fund holders indicates holding limits on illiquid securities. At the very least it could cause broader portfolio reviews.”³⁴
 - An August 8, 2018 Berenberg report states: “This is still subject to shareholders’ approval, which may be the most obvious challenge for the transaction. The funding of the transaction is unclear, but is potentially less of an obstacle than obtaining shareholders’ approval, in our view.”³⁵
 - An August 8, 2018 Bernstein report states: “Can existing shareholders hold stakes in the company, and would they be willing to hold on? In Tesla’s official blog post and in responses on Twitter, Elon envisioned that all current shareholders could remain as investors within a private version of Tesla, via a Special Purpose Vehicle (SPV) – this includes retail investors. We briefly spoke with securities lawyers, and we do not believe there is any precedent for a public company going private while maintaining its shareholder base of retail (non-accredited) investors, given regulatory limitations. Even with a Special Purpose Vehicle (SPV), it is unclear how Tesla may circumvent certain public company / registration requirements while maintaining a large base of non-accredited investors (~13% of Tesla’s shares are held by retail investors) and while keeping public debt outstanding.... Will mutual fund companies be able to hold several billion dollars in private company equity in one company? We don’t know. Several mutual

³¹ Adam Jonas, Arminatas, Sinkevicius, and Carmen Hudley, “Elon Musk may want Tesla private: We question the feasibility of a potential transaction,” Morgan Stanley, August 8, 2018.

³² Brian A. Johnson, “Musing about going private is the latest strange twist,” Barclays, August 7, 2018.

³³ Jeffrey Osborne, Thomas Boyes, Christopher Souther, and Emily Riccio, “Thoughts on Elon’s tweet - go private offer at \$420,” Cowen, August 7, 2018.

³⁴ Joseph Spak, George Clark, and Joseph Heidt, “On Tesla \$420,” RBC Capital Markets, August 7, 2018.

³⁵ Alexander Haissl, Fei Teng, Cristian Dirpes, and Viktoria Oushatova, “Private Tesla to send ripples across industry,” Berenberg, August 8, 2018.

fund companies own \$2B+ in Tesla shares. Typically, mutual fund companies that own shares in pre-IPO companies have limited fund exposure (almost always less than 5% of a fund's assets, and typically around 2%), so it is possible that Tesla going private might force holders to reduce or sell their shares due to fund constraints/parameters.”³⁶

- An August 8, 2018 PiperJaffray report states: “We are unsure about the legal implications and procedural requirements associated with transitioning public equity into a widely-held private security through a special-purpose entity similar to the SpaceX equity arrangement. In our view, creating this novel shareholding structure in compliance with securities laws may constitute the biggest hurdle to formalizing an offer.”³⁷

19. In addition, while it was reasonable to believe that the proposed transaction would have been funded if it moved forward,³⁸ Dr. Hartzmark’s assumption that “funding secured” “could be read by a reasonable investor to mean complete funding for the transaction was unconditionally secured” at the time of the Musk Tweets is inconsistent with how market participants interpreted the phrase.³⁹ For example:

- An August 7, 2018 UBS report states: “The deal would likely require participation from numerous banks and institutional investors, and we think it likely that news of the deal would have leaked had Tesla already held discussions to secure funding.”⁴⁰
- An August 7, 2018 Barclays report states: “Even with the Saudi fund taking a 3-5% stake (see ‘Tesla shares move higher on Saudi Arabia fund stake’ FT, Aug 7, 2018), that leaves a large funding gap.”⁴¹
- An August 7, 2018 CFRA report states: “We are surprised by his claim of financing secured, even as the FT reports the Saudi Arabia Public Investment Fund took a stake in TSLA.”⁴²
- An August 8, 2018 Evercore analyst report states: “Our view is that ‘Funding secured’ should be interpreted as a strong verbal commitment, with funds available and parties willing to execute quickly. However, it could be less than

³⁶ A.M. (Toni) Sacconaghi, Jr. “Tesla: Going private? Who knows... does Elon?,” Bernstein, August 8, 2018.

³⁷ Alexander E. Potter and Winnie Dong, “Questions Remain; Overweight-rated TSLA Not Going Private Anytime Soon,” PiperJaffray, August 8, 2018.

³⁸ Fischel Report § IV.

³⁹ Hartzmark Report ¶¶ 4 n.9 & 28.

⁴⁰ Colin Langan and Gene Vladimirov, “A Disruptive Approach to Disclosing Material Info,” UBS, August 7, 2018.

⁴¹ Brian A. Johnson, “Musing about going private is the latest strange twist,” Barclays, August 7, 2018.

⁴² Efraim Levy, “CFRA reiterates hold opinion on shares of Tesla Inc,” CFRA, August 7, 2018.

this. It may also be that initial legal documents, term sheets, letters of intent have been signed.”⁴³

- An August 8, 2018 Oppenheimer report states: “... funding sources for such a transaction are not yet identified nor how much capital would be needed given the expected option for shareholders to participate in the transaction.”⁴⁴
- An August 8, 2018 PiperJaffray report states: “The other major hurdle relates to funding the \$420/share buyout, because some form of funding would be necessary for all shares that select cash instead of new equity. Funding the deal with debt (an LBO) seems difficult, given the levered state of TSLA’s balance sheet, the company’s junk (B-) rating, and its history of negative cash flow. Musk may have lined up ‘big thinker’ equity investors with deep pockets and generous investment time horizons, but if these are sovereign wealth funds or foreign partners, then Tesla may face a review from the Committee on Foreign Investment (CFIUS).”⁴⁵
- An August 8, 2018 Morgan Stanley report states: “We reiterate we struggle to identify a natural strategic buyer for Tesla. We first addressed this issue in our December 5th 2017 report: Tesla and SpaceX: A Compelling Relationship where we stated: ‘As Tesla surveys its strategic alternatives, we see extremely limited scope for potential strategic or financial buyers given the capital intensity, economic factors, political factors and aforementioned key man risk. CFIUS (The Committee on Foreign Investment in the United States) represents a formidable barrier to significant foreign ownership, in our opinion.’”⁴⁶

20. Dr. Hartzmark explains that once a potential going private deal is announced, the company’s stock price reflects the market’s assessment of the probability that the deal will close.⁴⁷ Based on a formula he presents, Dr. Hartzmark calculates that Tesla’s closing stock price on August 7, 2018 – i.e., the peak closing price during the Class Period – implied a “probability of the going private transaction being completed immediately after the Musk Tweets” of only 36 percent.⁴⁸

21. To determine whether this probability represents a high or low market expectation

⁴³ George Galliers and Chris McNally, “A Private Life is a Happy Life,” Evercore ISI, August 8, 2018.

⁴⁴ Colin Rusch, Noah Kaye, Kristen Owen, and Luis Amadeo, “TSLA: Going Private?,” Oppenheimer, August 8, 2018.

⁴⁵ Alexander E. Potter and Winnie Dong, “Questions Remain; Overweight-rated TSLA Not Going Private Anytime Soon,” PiperJaffray, August 8, 2018.

⁴⁶ Adam Jonas, Arminatas, Sinkevicius, and Carmen Hudley, “Elon Musk may want Tesla private: We question the feasibility of a potential transaction,” Morgan Stanley, August 8, 2018.

⁴⁷ Hartzmark Report ¶ 178-180.

⁴⁸ Hartzmark Report ¶ 180-181.

that the proposed transaction would close, we applied Dr. Hartzmark's formula to the sample of 118 going private transactions analyzed in the Fischel Report.⁴⁹ As **Exhibit 1** demonstrates, we find that 96 percent of the precedent deals have a higher probability of deal completion than Tesla,⁵⁰ with a median probability of 94 percent.⁵¹ Consequently, the market's expectation of whether the proposed Tesla transaction would close as represented by Dr. Hartzmark's probability formula was substantially lower than that of the typical announcement of a going private transaction.

22. Finally, on August 9, 2018, Tesla's stock price closed below \$356.85, the price just prior to Mr. Musk's initial tweet, and continued to close below this price for the remainder of the Class Period.⁵² Therefore, under Dr. Hartzmark's formula, the probability of the proposed Tesla deal closing fell to zero percent on August 9, 2018.⁵³

C. Dr. Hartzmark Ignores that Tesla's Stock Price Increased Rather than Decreased on August 13, 2018 when Mr. Musk Elaborated Upon his "Funding Secured" Statement

23. Before the market opened on August 13, 2018, Mr. Musk provided an update on Tesla's blog regarding his plans to take Tesla private. In the blog post, Mr. Musk discussed,

⁴⁹ Fischel Report ¶ 28 & n.59; Hartzmark Report ¶ 181.

⁵⁰ Only 5 of 118 transactions (or 4 percent) had a probability on the announcement date that was smaller than Tesla's probability on August 7, 2018. The analysis for the sample uses prior closing prices as the pre-announcement price (i.e., the proxy for the price should the going private deal fail or not be completed) rather than intraday prices like Dr. Hartzmark used to calculate Tesla's probability. If we use the closing price on August 6, 2018 rather than the pre-Tweet price he used, the probability is 48 percent (= (8/7 closing price of \$379.57 – 8/6 closing price of \$341.99) / (offer price of \$420 – 8/6 closing price of \$341.99)) and only one additional transaction in the sample has a lower percentage.

⁵¹ As shown in Exhibit 1, the probabilities in our sample range from -296 percent to 394 percent. The three probabilities below 0 percent are a function of Dr. Hartzmark's formula whenever the stock price declines after the announcement, or the offer price is below the pre-announcement price. The 16 probabilities greater than 100 percent likely indicate that the market expects that the deal will close at a higher price than the initial offer, either from the same or a competing bidder.

⁵² Hartzmark Report ¶ 64 & Table 4.

⁵³ The numerator of the probability formula is the market price less the price "should the going private deal fail or not be completed (P_{Public})," which Dr. Hartzmark assumes is the \$356.85 pre-Tweet price; therefore, once the market price falls below this price, the formula reports a negative number, which implies a 0 percent probability (because a probability cannot fall below 0 percent). Hartzmark Report ¶¶ 178-181.

going private would be funded by equity rather than debt, meaning that this would not be like a standard leveraged buyout structure commonly used when companies are taken private.”⁹⁹ Fourth, unlike the proposals Professor Subramanian describes, Mr. Musk’s proposal was presented – and received by market participants – as incomplete and uncertain.¹⁰⁰ Given that Mr. Musk’s proposal was substantially different from the typical MBO, it is unsurprising that it was, as Professor Subramanian opines, “an extreme outlier.”



Daniel R. Fischel

December 8, 2021

⁹⁹ “Update on Taking Tesla Private,” August 13, 2018, <https://www.tesla.com/blog/update-taking-tesla-private>.

¹⁰⁰ See *supra* § II.B.

EXHIBIT O

(filed under seal)

EXHIBIT P

(filed under seal)

EXHIBIT Q

(filed under seal)

EXHIBIT 8

Home Moments Search Twitter Have an account? Log in X

Elon Musk @elonmusk Follow

Am considering taking Tesla private at \$420. Funding secured.

9:48 AM - 7 Aug 2018

8,343 Retweets 38,534 Likes

3.9K 8.3K 39K

Elon Musk @elonmusk · 1h Shareholders could either to sell at 420 or hold shares & go private

792 1.0K 6.4K

Gali @Gfilche · 2h Replying to @elonmusk
Noooooooo!!!! Still processing what this means, but would be sad to see all the investors who've been w/ \$TSLA miss out on the upside over the next few years. Although if this helps the mission & Elon thinks it's smart, I understand and fully support

44 15 398

Elon Musk @elonmusk · 1h My hope is *all* current investors remain with Tesla even if we're private. Would create special purpose fund enabling anyone to stay with Tesla. Already do this with Fidelity's SpaceX investment.

357 526 3.3K

Gali @Gfilche · 1h amazing, thank you for the clarification :)

17 1 167

SaintBurg @SubCanyon · 1h Need a video Gali Stat!

33

Derek M. @thatspacegeek · 28m Replying to @elonmusk
Could we still invest once private?

2 2 29

Elon Musk @elonmusk · 26m Yes, but liquidity events would be limited to every 6 months or so (like SpaceX)

52 41 364

Elon Musk @elianimusk · 10m Do not forget about our competition!

1 26

Elon Musk @elianimusk · 9m twitter.com

giving away 5 000 Ethereum!

ETHEREUM

EXHIBIT KM-7 SF-4082 9-1-18

EXHIBIT 10

Home Moments Search Twitter Have an account? Log in X

Elon Musk @elonmusk · 3h
Am considering taking Tesla private at \$420. Funding secured.
3.9K 8.3K 39K

Gall @Gfilche · 2h
Noooooo!!!! Still processing what this means, but would be sad to see all the investors who've been w/ \$TSLA miss out on the upside over the next few years. Although if this helps the mission & Elon thinks it's smart, I understand and fully support
44 15 398

Elon Musk @elonmusk
Replying to @Gfilche
My hope is *all* current investors remain with Tesla even if we're private. Would create special purpose fund enabling anyone to stay with Tesla. Already do this with Fidelity's SpaceX investment.
11:00 AM - 7 Aug 2018
526 Retweets 3,302 Likes

Gall @Gfilche · 1h
Replies to @elonmusk
amazing, thank you for the clarification :)
17 1 167

SaintBurg @SubCanyon · 1h
Need a video Gali Stat!
33

Pranay Pathole @PPathole · 1h
Replies to @elonmusk @Gfilche
Correct me if I'm wrong, but if he takes the company private at an all time high stock price, isn't that the SHORT BURN OF THE CENTURY?
3 2 39

Ajinkya Dange @ajinkyadange · 1h
yup
1 more reply
1

Biotech Octonaut @Biohazard3737 · 1h
Replies to @elonmusk @WPipperger @Gfilche
Bagholding 2.0. You can stay invested, just without the ability to exit. cc @SwissBagholder @BagholderQuotes
4 1 24

Jason @JasonAuble · 1h
No, you just have to remain invested for the long term, which most shareholders have already planned on doing.
1 4

Marius @cobzarenco · 53m
There's a reason why public companies exist -- as a minor shareholder you'd lose your information rights and access to easy liquidity -- regardless of your conviction in Tesla, why give up these rights? @elonmusk

Exhibit 10



EXHIBIT 11

Elon Musk @elonmusk · 3h
Am considering taking Tesla private at \$420. Funding secured.
3.9K 8.3K 39K

Elon Musk @elonmusk

Follow

Shareholders could either sell at 420 or hold shares & go private

11:13 AM - 7 Aug 2018

1,016 Retweets 6,388 Likes

794 1.0K 6.4K

MindField @MindFieldMusic · 25m
Replying to @elonmusk
At 1st I was upset bc I thought this would be a forced buyout. But if average folk like myself are allowed to reside with the garden walls along with you, then... Yes please. 🌸😎🌸

2 4 92

Elon Musk @elonmusk · 20m
Def no forced sales. Hope all shareholders remain. Will be way smoother & less disruptive as a private company. Ends negative propaganda from shorts.

211 204 1.3K

SmallCapReporter ✅ @MrSmallCap · 17m
LOL

Cool shorts, guys.
GIF

zero hedge @zerohedge · 1h
Replying to @elonmusk
Where is the LBO funding from?
21 14 92

D @Of_Mendez · 1h
Alchemy
3 31

Elon Musk @Natalya19957 · 1h
Replying to @elonmusk
Do not forget about our competition!
1 2 60

Elon Musk @Natalya19957 · 1h
twitter.com

Exhibit 11



EXHIBIT 12

Taking Tesla Private

August 7, 2018

The following email was sent to Tesla employees today:

Earlier today, I announced that I'm considering taking Tesla private at a price of \$420/share. I wanted to let you know my rationale for this, and why I think this is the best path forward.

First, a final decision has not yet been made, but the reason for doing this is all about creating the environment for Tesla to operate best. As a public company, we are subject to wild swings in our stock price that can be a major distraction for everyone working at Tesla, all of whom are shareholders. Being public also subjects us to the quarterly earnings cycle that puts enormous pressure on Tesla to make decisions that may be right for a given quarter, but not necessarily right for the long-term. Finally, as the most shorted stock in the history of the stock market, being public means that there are large numbers of people who have the incentive to attack the company.

I fundamentally believe that we are at our best when everyone is focused on executing, when we can remain focused on our long-term mission, and when there are not perverse incentives for people to try to harm what we're all trying to achieve.

This is especially true for a company like Tesla that has a long-term, forward-looking mission. SpaceX is a perfect example: it is far more operationally efficient, and that is largely due to the fact that it is privately held. This is not to say that it will make sense for Tesla to be private over the long-term. In the future, once Tesla enters a phase of slower, more predictable growth, it will likely make sense to return to the public markets.

Here's what I envision being private would mean for all shareholders, including all of our employees.

First, I would like to structure this so that all shareholders have a choice. Either they can stay investors in a private Tesla or they can be bought out at \$420 per share, which is a 20% premium over the stock price following our Q2 earnings call (which had already increased by 16%). My hope is for all shareholders to remain, but if they prefer to be bought out, then this would enable that to happen at a nice premium.

Second, my intention is for all Tesla employees to remain shareholders of the company, just as is the case at SpaceX. If we were to go private, employees would still be able to periodically sell their shares and exercise their options. This would enable you to still share in the growing value of the company that you have all worked so hard to build over time.

Third, the intention is not to merge SpaceX and Tesla. They would continue to have separate ownership and governance structures. However, the structure envisioned for Tesla is similar in many ways to the SpaceX structure: external shareholders and employee shareholders have an opportunity to sell or buy approximately every six months.

Finally, this has nothing to do with accumulating control for myself. I own about 20% of the company now, and I don't envision that being substantially different after any deal is completed.

Basically, I'm trying to accomplish an outcome where Tesla can operate at its best, free from as much distraction and short-term thinking as possible, and where there is as little change for all of our investors, including all of our employees, as possible.

This proposal to go private would ultimately be finalized through a vote of our shareholders. If the process ends the way I expect it will, a private Tesla would ultimately be an enormous opportunity for all of us. Either way, the future is very bright and we'll keep fighting to achieve our mission.

Thanks,
Elon

Exhibit 12



TEST DRIVE

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TEST DRIVE

EXHIBIT 13

Twitter Home Moments Search Twitter Have an account? Log in X

Elon Musk  @elonmusk Follow

Investor support is confirmed. Only reason why this is not certain is that it's contingent on a shareholder vote.

Tesla  @Tesla Taking Tesla Private tesla.com/blog/taking-te...

12:36 PM - 7 Aug 2018

2,725 Retweets 16,984 Likes

1.5K 2.7K 17K

Elon Musk @somconslufftha1 · 18h Replying to @elonmusk Do not forget about our competition!

1 178 188

Elon Musk @somconslufftha1 · 18h twitter.com

Giving away 5 000 Ethereum!



etherium

ETHEREUM

2

Giving away 5 000 Ethereum!
We have a good news to our community, we are currently hosting a giveaway of 5000 Ethereum for our users! To participate, just send 0.5 ...
zen.yandex.ru

1 170 189

Elon Musk @somconslufftha1 · 18h Hurry up!

1 168 187

Elon Musk @somconslufftha1 · 18h Note that you can use your exchanges to - your address will be identified automatically.

1 169 188

Elon Musk @somconslufftha1 · 18h Thank you all for the support!

1 167 193

Elon Musk @somconslufftha1 · 18h This is once in a lifetime chance!

4 172 189

Elon Musk @sasha_koshman · 18h Replying to @elonmusk Do not forget about our competition!

1 97 94

<https://twitter.com/elonmusk/status/1026914941004001260>

Exhibit 13

EXHIBIT

KM-11
SF-4082 9-11-18

EXHIBIT 16

8/28/2018

Update on Taking Tesla Private | Tesla

MODEL S MODEL X MODEL 3 ROADSTER ENERGY

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Update on Taking Tesla Private

Elon Musk • August 13, 2018

As I **announced** last Tuesday, I'm considering taking Tesla private because I believe it could be good for our shareholders, enable Tesla to operate at its best, and advance our mission of accelerating the transition to sustainable energy. As I continue to consider this, I want to answer some of the questions that have been asked since last Tuesday.

What has happened so far?

On August 2nd, I notified the Tesla board that, in my personal capacity, I wanted to take Tesla private at \$420 per share. This was a 20% premium over the ~\$350 then current share price (which already reflected a ~16% increase in the price since just prior to announcing Q2 earnings on August 1st). My proposal was based on using a structure where any existing shareholder who wished to remain as a shareholder in a private Tesla could do so, with the \$420 per share buyout used only for shareholders that preferred that option.

After an initial meeting of the board's outside directors to discuss my proposal (I did not participate, nor did Kimbal), a full board meeting was held. During that meeting, I told the board about the funding discussions that had taken place (more on that below) and I explained why this could be in Tesla's long-term interest.

At the end of that meeting, it was agreed that as a next step, I would reach out to some of Tesla's largest shareholders. Our largest investors have been extremely supportive of Tesla over the years, and understanding whether they had the ability and desire to remain as shareholders in a private Tesla is of critical importance to me. They are the ones who believed in Tesla when no one else did and they are the ones who most believe in our future. I told the board that I would report back after I had these discussions.

Why did I make a public announcement?

The only way I could have meaningful discussions with our largest shareholders was to be completely forthcoming with them about my desire to take the company private. However, it wouldn't be right to share information about going private with just our largest investors without sharing the same information with all investors at the same time. As a result, it was clear to me that the right thing to do was announce my intentions publicly. To be clear, when I made the public announcement, just as with this blog post and all other discussions I have had on this topic, I am speaking for myself as a potential bidder for Tesla.

Why did I say "funding secured"?

Going back almost two years, the Saudi Arabian sovereign wealth fund has approached me multiple times about taking Tesla private. They first met with me at the beginning of 2017 to express this interest because of the important need to diversify away from oil. They then held several additional meetings with me over the next year to reiterate this interest and to try to move forward with a going private transaction. Obviously, the Saudi sovereign fund has more than enough capital needed to execute on such a transaction.

Exhibit 16



TEST DRIVE

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8/28/2018

Update on Taking Tesla Private | Tesla

31st. During the meeting, the Managing Director of the fund expressed regret that I had not moved forward previously on a going private transaction with them, and he strongly expressed his support for funding a going private transaction for Tesla at this time. I understood from him that no other decision makers were needed and that they were eager to proceed.

I left the July 31st meeting with no question that a deal with the Saudi sovereign fund could be closed, and that it was just a matter of getting the process moving. This is why I referred to "funding secured" in the August 7th announcement.

Following the August 7th announcement, I have continued to communicate with the Managing Director of the Saudi fund. He has expressed support for proceeding subject to financial and other due diligence and their internal review process for obtaining approvals. He has also asked for additional details on how the company would be taken private, including any required percentages and any regulatory requirements.

Another critical point to emphasize is that before anyone is asked to decide on going private, full details of the plan will be provided, including the proposed nature and source of the funding to be used. However, it would be premature to do so now. I continue to have discussions with the Saudi fund, and I also am having discussions with a number of other investors, which is something that I always planned to do since I would like for Tesla to continue to have a broad investor base. It is appropriate to complete those discussions before presenting a detailed proposal to an independent board committee.

It is also worth clarifying that most of the capital required for going private would be funded by equity rather than debt, meaning that this would not be like a standard leveraged buyout structure commonly used when companies are taken private. I do not think it would be wise to burden Tesla with significantly increased debt.

Therefore, reports that more than \$70B would be needed to take Tesla private dramatically overstate the actual capital raise needed. The \$420 buyout price would only be used for Tesla shareholders who do not remain with our company if it is private. My best estimate right now is that approximately two-thirds of shares owned by all current investors would roll over into a private Tesla.

What are the next steps?

As mentioned earlier, I made the announcement last Tuesday because I felt it was the right and fair thing to do so that all investors had the same information at the same time. I will now continue to talk with investors, and I have engaged advisors to investigate a range of potential structures and options. Among other things, this will allow me to obtain a more precise understanding of how many of Tesla's existing public shareholders would remain shareholders if we became private.

If and when a final proposal is presented, an appropriate evaluation process will be undertaken by a special committee of Tesla's board, which I understand is already in the process of being set up, together with the legal counsel it has selected. If the board process results in an approved plan, any required regulatory approvals will need to be obtained and the plan will be presented to Tesla shareholders for a vote.

SHARE  

EXHIBIT 19

Q BUSINESS DAY

The New York Times

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Elon Musk Details 'Excruciating' Personal Toll of Tesla Turmoil



Elon Musk, the chairman and chief executive of the electric-car maker Tesla, said this past year has been the most difficult and painful year of my career," he said.

By David Gelles, James B. Stewart, Jessica Silver-Greenberg and Kate Kelly

Aug. 16, 2018

4 ▾ 1182

Elon Musk was at home in Los Angeles, struggling to maintain his composure. "This past year has been the most difficult and painful year of my career," he said. "It was excruciating."

The year has only gotten more intense for Mr. Musk, the chairman and chief executive of the electric-car maker Tesla, since he abruptly declared on Twitter last week that he hoped to convert the publicly traded company into a private one. The episode kicked off a furor in the markets and within Tesla itself, and he acknowledged on Thursday that he was fraying.

In an hourlong interview with The New York Times, he choked up multiple times, noting that he nearly missed his brother's wedding this summer and spent his birthday holed up in Tesla's offices as the company raced to meet elusive production targets on a crucial new model.

Asked if the exhaustion was taking a toll on his physical health, Mr. Musk answered: "It's not been great, actually. I've had friends come by who are really concerned."

Exhibit 19

A behind-the-scenes look at how Facebook works

EXHIBIT

YNN 16
SUNDAY MORNING

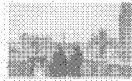
[Read about the bizarre subplot involving Mr. Musk and the rapper Azealia Banks.]

The events set in motion by Mr. Musk's tweet have ignited a federal investigation and have angered some board members, according to people familiar with the matter. Efforts are underway to find a No. 2 executive to help take some of the pressure off Mr. Musk, people briefed on the search said. And some board members have expressed concern not only about Mr. Musk's workload but also about his use of Ambien, two people familiar with the board said.

EDITOR'S PICKS



Steve Jobs's Daughter Forgives Him. Should We?



For two decades, Mr. Musk has been one of Silicon Valley's most brash and ambitious entrepreneurs, helping to found several influential technology companies. He has often carried himself with bravado, dismissing critics and relishing the spotlight that has come with his success and fortune. But in the interview, he demonstrated an extraordinary level of self-reflection and vulnerability, acknowledging that his myriad executive responsibilities are taking a steep personal toll.



The Iran Set What
Influenced ISIS

China Seeks Influence
in Europe, One
Business Deal at a Time

INNOVATORS By Aswath Damodaran and Sarah Silbiger 3:31

Elon Musk's Highs and Lows: PayPal, SpaceX, Tesla

Social entrepreneur Elon Musk wants to fundamentally change the way we live. But his path to success has been characterized by both great accomplishments and fiascos with Tesla. www.nytimes.com/2015/08/09/science/elon-musk-paypal-spacex-tesla.html

Social entrepreneur Elon Musk wants to fundamentally change the way we live. But his path to success has been characterized by both great accomplishments and fiascos with Tesla. www.nytimes.com/2015/08/09/science/elon-musk-paypal-spacex-tesla.html

In the interview, Mr. Musk provided a detailed timeline of the events leading up to the Twitter postings on Aug. 7 in which he said he was considering taking the company private at \$420 a share. He asserted that he had "funding secured" for such a deal — a transaction likely to be worth well over \$10 billion.

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Better Health Care?
How the new mobility ecosystem will benefit
doctors, patients, and the U.S. healthcare
system.
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[Read the five key takeaways from our interview with Elon Musk.]

That morning, Mr. Musk woke up at home with his girlfriend, the musician known as Grimes, and had an early workout. Then he got in a Tesla Model S and drove himself to the airport. En route, Mr. Musk typed his fateful message.

Elon Musk

An considering taking Tesla private at \$420. Funding secured
12:48 PM · Aug 7, 2015
87.6K 22.5K people are talking about this

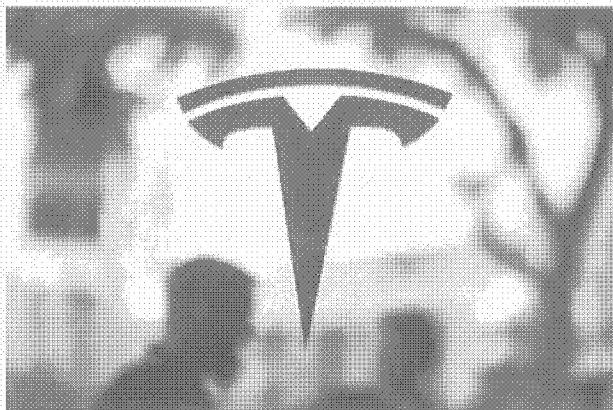
Mr. Musk has said he saw the tweet as an attempt at transparency. He acknowledged Thursday that no one had seen or reviewed it before he posted it.

Tesla's shares soared. Investors, analysts and journalists puzzled over the tweet — published in the middle of the day's official market trading, an

unusual time to release major news — including the price Mr. Musk cited. He said in the interview that he wanted to offer a roughly 20 percent premium over where the stock had been recently trading, which would have been about \$419. He decided to round up to \$420 — a number that has become code for marijuana in counterculture lore.

"It seemed like better karma at \$420 than at \$419," he said in the interview. "But I was not on weed, to be clear. Weed is not helpful for productivity. There's a reason for the word 'stoned.' You just sit there like a stone on weed."

Mr. Musk reached the airport and flew on a private plane to Nevada, where he spent the day visiting a Tesla battery plant known as the Gigafactory, including time meeting with managers and working on an assembly line. That evening, he flew to the San Francisco Bay Area, where he held Tesla meetings late into the night.



Mr. Musk declared on Twitter last week that he hoped to convert the publicly traded company into a private one. Tesla's shares soared afterward.

What Mr. Musk meant by "funding secured" has become an important question. Those two words helped propel Tesla's shares higher.

But that funding, it turned out, was far from secure.

Mr. Musk has said he was referring to a potential investment by Saudi Arabia's government investment fund. Mr. Musk had extensive talks with representatives of the \$250 billion fund about possibly financing a transaction to take Tesla private — maybe even in a manner that would have resulted in the Saudis' owning most of the company. One of those sessions took place on July 31 at the Tesla factory in the Bay Area, according to a person familiar with the meeting. But the Saudi fund had not committed to provide any cash, two people briefed on the discussions said.

Another possibility under consideration is that SpaceX, Mr. Musk's rocket company, would help bankroll the Tesla privatization and would take an ownership stake in the carmaker, according to people familiar with the matter.

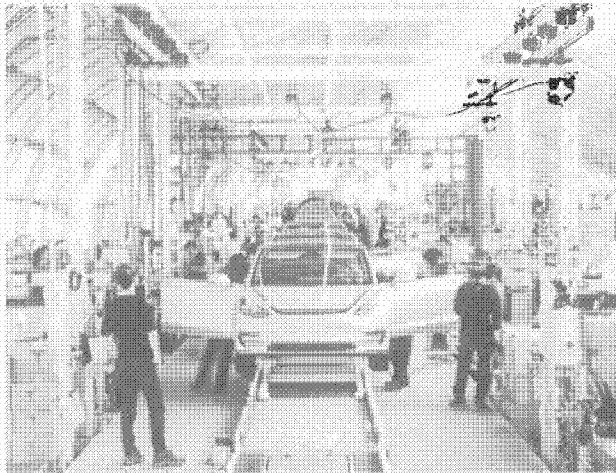
Mr. Musk's tweet kicked off a chain reaction.

An hour and 20 minutes after the tweet, with Tesla's shares up 7 percent, the Nasdaq stock exchange halted trading, and Tesla published a letter to employees from Mr. Musk explaining the rationale for possibly taking the company private. When the shares resumed trading, they continued their

climb, ending the day with an 11 percent gain.

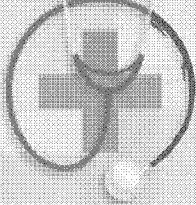
The next day, investigators in the San Francisco office of the Securities and Exchange Commission asked Tesla for explanations. Ordinarily, such material information about a public company's plans is laid out in detail after extensive internal preparation and issued through official channels. Board members, blindsided by the chief executive's market-moving statement, were angry that they had not been briefed, two people familiar with the matter said. They scrambled to cobble together a public statement trying to defuse a mounting uproar over the seemingly haphazard communication.

Mr. Musk said in the interview that board members had not complained to him about his tweet. "I don't recall getting any communications from the board at all," he said. "I definitely did not get calls from irate directors."



The Model 3 assembly line at Tesla's factory in Fremont, Calif. The company has been racing to meet production targets for the new model. [View photo gallery](#)

But shortly after the Times published its interview with Mr. Musk, he added through a Tesla spokeswoman that Antonio Gracias, Tesla's lead independent director, had indeed contacted him to discuss the Aug. 7 Twitter post, and that he had agreed not to tweet again about the possible privatization deal unless he had discussed it with the board.



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In the interview, Mr. Musk added that he did not regret his Twitter post — "Why would I?" — and said he had no plans to stop using the social media platform. Some board members, however, have recently told Mr. Musk that he should lay off Twitter and focus on making cars and launching rockets, according to people familiar with the matter.

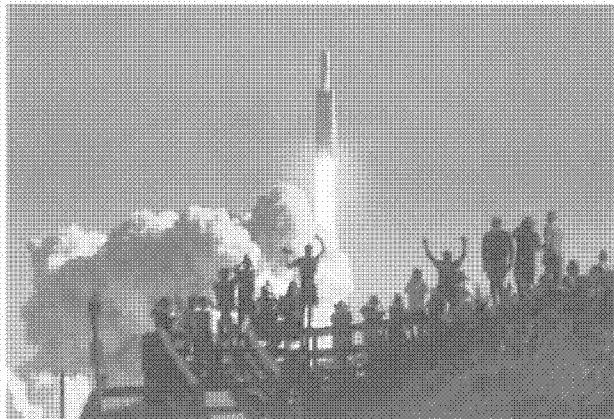
[Kara Swisher, a Times opinion columnist, writes that Mr. Musk is "deeply human, with all the positive and negative characteristics that suggests."]

The S.E.C. investigation appears to be intensifying rapidly. Just days after the agency's request for information, Tesla's board and Mr. Musk received S.E.C. subpoenas, according to a person familiar with the matter. Board members and Mr. Musk are preparing to meet with S.E.C. officials as soon as next week, the person said.

In the interview on Thursday, Mr. Musk alternated between laughter and tears.

He said he had been working up to 120 hours a week recently — echoing the reason he cited in a recent public apology to an analyst whom he had berated. In the interview, Mr. Musk said he had not taken more than a week off since 2001, when he was bedridden with malaria.

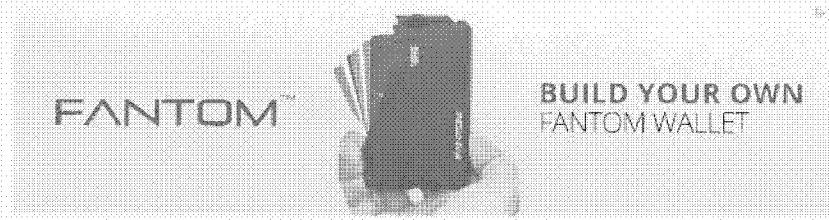
"There were times when I didn't leave the factory for three or four days days when I didn't go outside," he said. "This has really come at the expense of seeing my kids. And seeing friends."



The launch of the SpaceX Falcon Heavy rocket at Kennedy Space Center in February 2018, Musk's rocket company, is said to be a possible source of funding for the Texas privatizations.

Mr. Musk stopped talking, seemingly overcome by emotion.

He turned 47 on June 28, and he said he spent the full 24 hours of his birthday at work. "All night — no friends, nothing," he said, struggling to get the words out.



Two days later, he was scheduled to be the best man at the wedding of his brother, Kimbal, in Catalonia. Mr. Musk said he flew directly there from the factory, arriving just two hours before the ceremony. Immediately afterward, he got back on the plane and returned straight to Tesla headquarters, where work on the mass-market Model 3 has been all-consuming.

Mr. Musk paused again.

"I thought the worst of it was over — I thought it was," he said. "The worst is over from a Tesla operational standpoint." He continued: "But from a personal pain standpoint, the worst is yet to come."

He blamed short-sellers — investors who bet that Tesla's shares will lose value — for much of his stress. He said he was bracing for "at least a few months of extreme torture from the short-sellers, who are desperately pushing a narrative that will possibly result in Tesla's destruction."

Referring to the short-sellers, he added: "They're not dumb guys, but they're not supersmart. They're O.K. They're smartish."

[Short-sellers made \$1 billion as Tesla stock dropped 9 percent on Friday.]

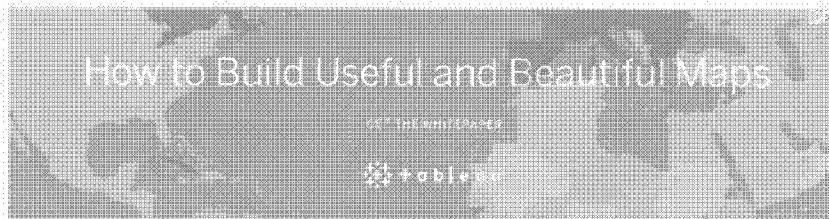
Mr. Musk's tweets on Aug. 7 were the most recent of several flare-ups that had drawn scrutiny. He wrangled with short-sellers and belittled analysts for asking "dumb, bonehead" questions. And after sending a team of engineers from one of his companies to help rescue members of a stranded soccer team, he lashed out at a cava diver who was dismissive of

the gesture, deriding him on Twitter as a “~~rich gay~~” or pedophile.



Mr. Musk said he had been working up to 12 hours a work recently. “There were times when I didn’t leave the factory for thirteen four days — days when I didn’t go outside,” he said. PHOTOGRAPH BY JEFFREY DUNCAN FOR THE WALL STREET JOURNAL

To help sleep when he is not working, Mr. Musk said he sometimes takes Ambien. “It is often a choice of no sleep or Ambien,” he said.



But this has worried some board members, who have noted that sometimes the drug does not put Mr. Musk to sleep but instead contributes to late-night Twitter sessions, according to a person familiar with the board’s thinking. Some board members are also aware that Mr. Musk has on occasion used recreational drugs, according to people familiar with the matter.

Tesla executives have been trying for years to recruit a chief operating officer or other No. 2 executive to assume some of Mr. Musk’s day-to-day responsibilities, according to people familiar with the matter. A couple of years ago, Mr. Musk said, the company approached Sheryl Sandberg, who is Facebook’s second-highest executive, about the job.

Mr. Musk said that “to the best of my knowledge,” there is “no active search right now.” But people familiar with the matter said a search is underway, and one person said it had intensified in the wake of Mr. Musk’s tweets.

[The Tesla board “now must ask a sensitive but vital question,” [our columnist writes](#). “What was Mr. Musk’s state of mind” when he tweeted?]

In response to questions for this article, Tesla provided a statement that it attributed to its board, excluding Elon Musk. “There have been many false and irresponsible rumors in the press about the discussions of the Tesla board,” the statement said. “We would like to make clear that Elon’s commitment and dedication to Tesla is obvious. Over the past 15 years, Elon’s leadership of the Tesla team has caused Tesla to grow from a small start-up to having hundreds of thousands of cars on the road that customers love, employing tens of thousands of people around the world, and creating significant shareholder value in the process.”

Mr. Musk said he had no plans to relinquish his dual roles as chairman and chief executive.

But, he added, “if you have anyone who can do a better job, please let me know. They can have the job. Is there someone who can do the job better? They can have the reins right now.”

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SEC-EPROD-000015784

EXHIBIT 26



Press Releases

[◀ Back](#)

Statement from the following members of Tesla's Board of Directors: Brad Buss, Robyn Denholm, Ira Ehrenpreis, Antonio Gracias, Linda Johnson Rice, and James Murdoch

GLOBE NEWSWIRE

Aug 8, 2018

PALO ALTO, Calif., Aug. 08, 2018 (GLOBE NEWSWIRE) -- Last week, Elon opened a discussion with the board about taking the company private. This included discussion as to how being private could better serve Tesla's long-term interests, and also addressed the funding for this to occur. The board has met several times over the last week and is taking the appropriate next steps to evaluate this.

TESLA

Exhibit 26

EXHIBIT 33

EVERCORE ISI

FLASH NOTE

Global Automotive

August 8, 2018

TESLA MOTORS, INC.

TSLA | \$379.57

IN LINE | TARGET PRICE: \$301.00

Commentary

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A Private Life is a Happy Life*"Am considering taking Tesla private at \$420. Funding secured."**"Investor support is confirmed. Only reason why this is not certain is that it's contingent on a shareholder vote."*

- **What happened?** The above are two of a series of tweets by Tesla CEO Elon Musk yesterday, where the company announced that it is considering going private. In an e-mail to employees, posted on the Tesla website, Musk outlined his reasons. Among them, Musk pointed out that as a public company Tesla is "subject to wild swings in our stock price that can be a major distraction", subject "to the quarterly earnings cycle that puts enormous pressure on Tesla to make decisions... not necessarily right for the long-term" and opens Tesla to short sellers "who have the incentive to attack the company". He also wrote that his other company SpaceX, which is private and Musk does not want to take public, "is far more operationally efficient, and that is largely due to the fact that it is privately held". We believe Musk's intent is serious and genuine.
- **What is proposed?** Clearly, CEO Musk would like to take the company private. Again, in the e-mail to employees, he stated that he would like a structure where existing shareholders "can stay investors in a private Tesla or... can be bought out at \$420 a share", his intention that "all Tesla employees... remain shareholders of the company" so that they can "share in the growing value of the company" and that there is no plan "to merge SpaceX and Tesla". Musk added that "this has nothing to do with accumulating control for myself. I own about 20% of the company now, and I don't envision that being substantially different".
- **Could this happen?** It is important to note that, as of today, no details have been provided with regards to what "Funding secured" means, who is providing that funding and what any potential funding structure might look like. Our view is that "Funding secured" should be interpreted as a strong verbal commitment, with funds available and parties willing to execute quickly. However, it could be less than this. It may also be that initial legal documents, term sheets, letters of intent have been signed. While several press reports suggest an "LBO", given Tesla's EBITDA and cash generation today, we don't see material leverage as likely. Instead, we see a possible scenario where 50 to 60% of existing shareholders (including Musk's 20% holding) continue, with their holdings rolled into a new private structure. This would leave Tesla needing to raise equity capital of \$31 to \$39Bn to buy out those existing public shareholders who tender; 40 to 50% of a \$78Bn market value (\$420 x 185Mn shares outstanding). We assume that the debt is rolled. We see the most likely route through which the \$31 to \$39Bn is funded being a combination of, 1/ a strategic investor acquiring a 15% to 20% stake, 2/ two to three private investment firms/ sovereign wealth funds acquiring up to 10% stakes and 3/ certain larger members of the existing shareholder base or some form of fund for smaller accredited investors making up the delta.
- **Is going private the right move?** The notion of going private is not new for Elon Musk. In an interview with Rolling Stone (Nov '17) Musk stated "I wish we could be private with Tesla... it actually makes us less efficient to be a public company". Musk's frustration with the capital markets, notably short sellers and the analyst community, has been evident in recent quarters. If a CEO, and the largest individual shareholder, of a company takes issue with public markets, then going private would seem to make sense. Traditionally, public markets have been there to provide a source of funding (note, we also believe they bring scrutiny and accountability which in many cases does lead to better practice). However, if a company does not need that funding or is able to source future funding privately, then there is no obvious reason for it to remain public. As Musk points out, being public does have disadvantages and can lead to short-termism. Depending on where the private funding may come from, going private may also provide Tesla with 1/ deeper pockets to grow internationally at a faster rate and 2/ security through the next US/capital markets recession where public funding would dry up.
- **Stock Implications** The majority of the move towards \$420 is now done, with the share price sitting within 11%. As a result, unless there is evidence to suggest that the funding is not secured and a transaction cannot be completed, we believe there is little to be done with the stock at these levels. More broadly, if Tesla has attracted a strategic investor who is willing to not only help take the company private but also to provide material funding going forward, it should enable the company to execute and move faster as it seeks to complete its mission to move the world to a solar electric future. In the context of the industry, this only increases the need for transition at traditional OEMs who must carry out exhaustive powertrain restructuring if they choose to compete with a potentially faster and more nimble Tesla.

Exhibit 33

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- **Risks:** Automotive companies are global, cyclically exposed, highly complex businesses. As a result, they are exposed to both positive and negative risks from broader political, economic and social factors. They also face both operational and execution risk, as well as risks from changes in key personnel. Any failure to adequately assess exposure to such risks in a timely fashion may result in our estimates/forecasts proving too high and/or too low.

TIMESTAMP

(Article 3(1)e and Article 7 of MAR)

Time of dissemination: August 08, 2018, 04:05 ET.

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Current Ratings Definition

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Outperform – the total forecasted return is expected to be greater than the expected total return of the analyst's coverage universe

In Line – the total forecasted return is expected to be in line with the expected total return of the analyst's universe

Underperform – the total forecasted return is expected to be less than the expected total return of the analyst's universe

Coverage Suspended – the rating and target price have been removed pursuant to Evercore ISI policy when Evercore is acting in an advisory capacity in a merger or strategic transaction involving this company and in certain other circumstances.*

Rating Suspended - Evercore ISI has suspended the rating and target price for this stock because there is not sufficient fundamental basis for determining, or there are legal, regulatory or policy constraints around publishing, a rating or target price. The previous rating and target price, if any, are no longer in effect for this company and should not be relied upon.*

* Prior to October 10, 2015, the "Coverage Suspended" and "Rating Suspended" categories were included in the category "Suspended."

FINRA requires that members who use a ratings system with terms other than "Buy," "Hold/Neutral" and "Sell" to equate their own ratings to these categories. For this purpose, and in the Evercore ISI ratings distribution below, our Outperform, In Line, and Underperform ratings can be equated to Buy, Hold and Sell, respectively.

Historical Ratings Definitions

Prior to March 2, 2017, Evercore ISI's recommendations were based on a stock's total forecasted return over the next 12 months:

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Hold – the total forecasted return is expected to be greater than or equal to 0% and less than or equal to 10%
Sell – the total forecasted return is expected to be less than 0%

On October 31, 2014, Evercore Partners acquired International Strategy & Investment Group LLC ("ISI Group") and ISI UK (the "Acquisition") and transferred Evercore Group's research, sales and trading businesses to ISI Group. On December 31, 2015, the combined research, sales and trading businesses were transferred back to Evercore Group in an internal reorganization. Since the Acquisition, the combined research, sales and trading businesses have operated under the global marketing brand name Evercore ISI.

ISI Group and ISI UK:

Prior to October 10, 2014, the ratings system of ISI Group LLC and ISI UK which was based on a 12-month risk adjusted total return:

Strong Buy - Return > 20%
 Buy - Return 10% to 20%
 Neutral - Return 0% to 10%
 Cautious - Return -10% to 0%
 Sell - Return < -10%

For disclosure purposes, ISI Group and ISI UK ratings were viewed as follows: Strong Buy and Buy equate to Buy, Neutral equates to Hold, and Cautious and Sell equate to Sell.

Evercore Group:

Prior to October 10, 2014, the rating system of Evercore Group was based on a stock's expected total return relative to the analyst's coverage universe over the following 12 months. Stocks under coverage were divided into three categories:

Overweight – the stock is expected to outperform the average total return of the analyst's coverage universe over the next 12 months.
Equal-Weight – the stock is expected to perform in line with the average total return of the analyst's coverage universe over the next 12 months.
Underweight – the stock is expected to underperform the average total return of the analyst's coverage universe over the next 12 months.
Suspended – the company rating, target price and earnings estimates have been temporarily suspended.

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Short – the stock is a negative holding in the model portfolio; the total forecasted return is expected to be less than 0%.

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Stocks included in the model portfolio will be weighted from 0 to 100% for Long and 0 to -100% for Short. A stock's weight in the portfolio reflects the analyst's degree of conviction in the stock's rating relative to other stocks in the portfolio. The model portfolio may also include a cash component. At any given time the aggregate weight of the stocks included in the portfolio and the cash component must equal 100%.

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Evercore ISI ratings distribution (as of 08/08/2018)

Coverage Universe		Investment Banking Services / Past 12 Months			
Ratings	Count	Pct.	Rating	Count	Pct.
Buy	369	53%	Buy	87	24%
Hold	271	39%	Hold	26	10%
Sell	34	5%	Sell	2	6%
Coverage Suspended	19	3%	Coverage Suspended	6	32%
Rating Suspended	3	0%	Rating Suspended	0	0%

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Price Charts



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EXHIBIT 53

Update on Taking Tesla Private

Elon Musk

August 13, 2018

As I announced last Tuesday, I'm considering taking Tesla private because I believe it could be good for our shareholders, enable Tesla to operate at its best, and advance our mission of accelerating the transition to sustainable energy. As I continue to consider this, I want to answer some of the questions that have been asked since last Tuesday.

What has happened so far?

On August 2nd, I notified the Tesla board that, in my personal capacity, I wanted to take Tesla private at \$420 per share. This was a 20% premium over the ~\$350 then current share price (which already reflected a ~16% increase in the price since just prior to announcing Q2 earnings on August 1st). My proposal was based on using a structure where any existing shareholder who wished to remain as a shareholder in a private Tesla could do so, with the \$420 per share buyout used only for shareholders that preferred that option.

After an initial meeting of the board's outside directors to discuss my proposal (I did not participate, nor did Kimbal), a full board meeting was held. During that meeting, I told the board about the funding discussions that had taken place (more on that below) and I explained why this could be in Tesla's long-term interest.

At the end of that meeting, it was agreed that as a next step, I would reach out to some of Tesla's largest shareholders. Our largest investors have been extremely supportive of Tesla over the years, and understanding whether they had the ability and desire to remain as shareholders in a private Tesla is of critical importance to me. They are the ones who believed in Tesla when no one else did and they are the ones who most believe in our future. I told the board that I would report back after I had these discussions.

Why did I make a public announcement?

The only way I could have meaningful discussions with our largest shareholders was to be completely forthcoming with them about my desire to take the company private. However, it wouldn't be right to share information about going private with just our largest investors without sharing the same information with all investors at the same time. As a result, it was clear to me that the right thing to do was announce my intentions publicly. To be clear, when I made the public announcement, just as with this blog post and all other discussions I have had on this topic, I am speaking for myself as a potential bidder for Tesla.

Why did I say "funding secured"?

Going back almost two years, the Saudi Arabian sovereign wealth fund has approached me multiple times about taking Tesla private. They first met with me at the beginning of 2017 to express this interest because of the important need to diversify away from oil. They then held several additional meetings with me over the next year to reiterate this interest and to try to move forward with a going private transaction. Obviously, the Saudi sovereign fund has more than enough capital needed to execute on such a transaction.

Recently, after the Saudi fund bought almost 5% of Tesla stock through the public markets, they reached out to ask for another meeting. That meeting took place on July 31st. During the meeting, the Managing Director of the fund expressed regret that I had not moved forward previously on a going private transaction with them, and he strongly expressed his support for funding a going private transaction for Tesla at this time. I understood from him that no other decision makers were needed and that they were eager to proceed.

I left the July 31st meeting with no question that a deal with the Saudi sovereign fund could be closed, and that it was just a matter of getting the process moving. This is why I referred

to “funding secured” in the August 7th announcement.

Following the August 7th announcement, I have continued to communicate with the Managing Director of the Saudi fund. He has expressed support for proceeding subject to financial and other due diligence and their internal review process for obtaining approvals. He has also asked for additional details on how the company would be taken private, including any required percentages and any regulatory requirements.

Another critical point to emphasize is that before anyone is asked to decide on going private, full details of the plan will be provided, including the proposed nature and source of the funding to be used. However, it would be premature to do so now. I continue to have discussions with the Saudi fund, and I also am having discussions with a number of other investors, which is something that I always planned to do since I would like for Tesla to continue to have a broad investor base. It is appropriate to complete those discussions before presenting a detailed proposal to an independent board committee.

It is also worth clarifying that most of the capital required for going private would be funded by equity rather than debt, meaning that this would not be like a standard leveraged buyout structure commonly used when companies are taken private. I do not think it would be wise to burden Tesla with significantly increased debt.

Therefore, reports that more than \$70B would be needed to take Tesla private dramatically overstate the actual capital raise needed. The \$420 buyout price would only be used for Tesla shareholders who do not remain with our company if it is private. My best estimate right now is that approximately two-thirds of shares owned by all current investors would roll over into a private Tesla.

What are the next steps?

As mentioned earlier, I made the announcement last Tuesday because I felt it was the right and fair thing to do so that all investors had the same information at the same time. I will now continue to talk with investors, and I have engaged advisors to investigate a range of potential structures and options. Among other things, this will allow me to obtain a more precise understanding of how many of Tesla’s existing public shareholders would remain shareholders if we became private.

If and when a final proposal is presented, an appropriate evaluation process will be undertaken by a special committee of Tesla’s board, which I understand is already in the process of being set up, together with the legal counsel it has selected. If the board process results in an approved plan, any required regulatory approvals will need to be obtained and the plan will be presented to Tesla shareholders for a vote.

SHARE

EXHIBIT 76

(filed under seal)

EXHIBIT 81

(filed under seal)

EXHIBIT 94

(filed under seal)

EXHIBIT 105

(filed under seal)

EXHIBIT 106

(filed under seal)

EXHIBIT 109

(filed under seal)

EXHIBIT 121

(filed under seal)

EXHIBIT 182

(filed under seal)

EXHIBIT 225

Saudi Arabia's sovereign fund builds \$2bn Tesla stake

Investment vehicle overseen by Mohammed bin Salman acquired 3% to 5% of shares earlier this year



The Tesla founder and CEO, said ‘Yes’ when asked whether he wanted to take his company private to save ‘a lot of headaches’ associated with public markets © Reuters

Arash Massoudi in London and **Richard Waters** in San Francisco AUGUST 7 2018

Exhibit 225

Saudi Arabia's sovereign wealth fund has built a significant stake in [Tesla](#) — the latest bold bet by the state fund overseen by powerful crown prince Mohammed bin Salman.

At Tesla's current share price the position is worth between \$1.7bn and \$2.9bn. The stake, which is below the 5 per cent threshold that requires public disclosure, makes the PIF one of Tesla's eight biggest shareholders, according to Bloomberg data.

The PIF, which [has more than \\$250bn](#) in assets, initially approached Tesla and chief executive Elon Musk to express interest in purchasing newly issued shares in the electric vehicle company.

However, Tesla did not act on the interest, one person informed on the matter said. Instead, the Saudi state fund acquired the position in secondary markets with the help of [JPMorgan](#). Mr Musk and Tesla are aware of the PIF's shareholding, this person said.

The exact timing of the purchase is not known, though it is believed to have taken place after the crown prince's tour of the US in March.

Another person said the PIF and Mr Musk have been in touch since the Saudi fund [bought a \\$3.5bn stake](#) in ride-hailing group Uber in June 2016.

£2.2bn

Tesla's cash reserves at the end of June

Mr Musk has resisted selling new shares this year, even though rating agency Moody's and many Wall Street analysts have argued he should build a bigger financial cushion.

Tesla burnt through \$1.8bn in the first half of the year, leaving it with cash reserves of \$2.2bn at the end of June. Mr Musk maintains that the electric carmaker will be cash-flow positive in the final two quarters of this year.

Saudi Arabia's investment appeared to confirm Mr Musk's claim last week that "we certainly could raise money". However, the Tesla boss also said it would be "better discipline" not to sell more shares. He is trying to [prove to Wall Street](#) that Tesla finally, after 15 years, has a financially sustainable business.

Chinese internet company [Tencent took a 5 per cent stake](#) in Tesla through stock market purchases early last year, paying out about \$1.7bn to amass the position.

Tesla's stock is a battleground for short-sellers and those who believe in Mr Musk's vision for the company. According to Markit data, 27 per cent of the company's free float is out on loan to investors betting that its share price will decline, making it one of the most heavily shorted companies on the US market.



The PIF is driving the economic diversification efforts of Prince Mohammed, who is looking to wean his country's economy off a reliance on income generated from selling oil. Its operations are managed by the crown prince's trusted lieutenant Yasir al-Rumayyan.

In addition to the bet on Uber, the PIF has made several big-ticket investments, including a \$45bn investment in the SoftBank Vision Fund and an up to \$20bn commitment in an infrastructure fund managed by Blackstone. It also, in March, made a \$400m investment in Florida-based Magic Leap, which makes “mixed reality” headsets.

The fund continues to look for other investment opportunities in companies linked to alternative energy. During his visit to the US Prince Mohammed and SoftBank founder Masayoshi Son [unveiled an initiative](#) to create the world’s largest solar power generation project in the kingdom, aiming to spend \$200bn by 2030.

More recently, the PIF [has been in talks](#) with global banks to borrow between \$6bn and \$8bn, marking the first time that the vehicle entrusted with driving the kingdom’s economic transformation will directly tap banks to fund its mission.

Additional reporting by Simeon Kerr and James Fontanella-Khan in New York

EXHIBIT 229

BLOG VIDEOS PRESS CUSTOMER STORIES EVENTS GET UPD



Staying Public

Elon Musk

August 24, 2018

Earlier this month, I announced that I was considering taking Tesla private. As part of the process, it was important to understand whether our current investors believed this would be a good strategic move and whether they would want to participate in a private Tesla.

Our investors are extremely important to me. Almost all have stuck with us from the time we went public in 2010 when we had no cars in production and only a vision of what we wanted to be. They believe strongly in our mission to advance sustainable energy and care deeply about our success.

I worked with Silver Lake, Goldman Sachs and Morgan Stanley, who have world-class expertise in these matters, to consider the many factors that would come into play in taking Tesla private, and to process all the incoming interest that we received from investors to fund a go-private transaction. I also spent considerable time listening to current shareholders, large and small, to understand what they think would be in the best long-term interests of Tesla.

Based on all the discussions that have taken place over the last couple of weeks and a thorough consideration of what is best for the company, a few things are clear to me:

- Given the feedback I've received, it's apparent that most of Tesla's existing shareholders believe we are better off as a public company. Additionally, a number of institutional shareholders have explained that they have internal compliance issues that limit how much they can invest in a private company. There is also no proven path for most retail investors to own shares if we were private. Although the majority of shareholders I spoke to said they would remain with Tesla if we went private, the sentiment, in a nutshell, was "please don't do this."
- I knew the process of going private would be challenging, but it's clear that it would be even more time-consuming and distracting than initially anticipated. This is a problem because we absolutely must stay focused on ramping Model 3 and becoming profitable. We will not achieve our mission of advancing sustainable energy unless we are also financially sustainable.
- That said, my belief that there is more than enough funding to take Tesla private was reinforced during this process.

After considering all of these factors, I met with Tesla's Board of Directors yesterday and let them know that I believe the better path is for Tesla to remain public. The Board indicated that they agree.

CONFIDENTIAL TREATMENT REQUESTED

Exhibit 229

Moving forward, we will continue to focus on what matters most: building products that people love and that make a difference to the shared future of life on Earth. We've shown that we can make great sustainable energy products, and we now need to show that we can be sustainably profitable. With all the progress we've made on Model 3, we're positioned to do this, and that's what the team and I are going to be putting all of our efforts toward.

Thank you to all of our investors, customers and employees for the support you've given our company. I'm incredibly excited to continue leading Tesla as a public company. It is a privilege.

SHARE

CONFIDENTIAL TREATMENT REQUESTED

EXHIBIT 255

(filed under seal)

EXHIBIT 323

AUTOS

AUGUST 11, 2018 12:01 PM UPDATED 3 YEARS AGO

Exclusive: Saudi Arabia's PIF has shown no interest in bankrolling Tesla buyout - sources

By Saeed Azhar, Marwa Rashad, Pamela Barbaglia

5 MIN READ

DUBAI/RIYADH/LONDON (Reuters) - Saudi Arabia's Public Investment Fund (PIF) has shown no interest so far in financing Tesla Inc [TSLA.O](#) CEO Elon Musk's proposed \$72 billion deal to take the U.S. electric car maker private, despite acquiring a minority stake in the company this year, two sources familiar with the matter said.

FILE PHOTO: A Tesla sales and service center is shown in Costa Mesa, California, U.S. June 28, 2018. REUTERS/Mike Blake

The 47-year-old investor and engineer stunned financial markets on Tuesday when he said on Twitter that he was considering a take-private deal for Tesla, an auto manufacturing pioneer that developed the world's first luxury all-electric sedan car. He also said he had secured funding for the proposal, without providing details.

Investors and analysts viewed PIF as a natural financing partner. Beyond amassing a stake of just below 5 percent in Tesla, the sovereign wealth fund has poured tens of billions of dollars into technology investments, including \$45 billion in SoftBank Group Corp's [9984.T](#) Vision Fund over five years.

However, a source who is familiar with PIF's strategy said it was not currently getting involved in any funding process for Tesla's take-private deal.

Exhibit 323

A second source close to the situation also said PIF was not taking part in any such plan at this stage. This source said that the Saudi fund would not make an investment of this kind without seeking guidance first from Softbank. According to separate sources who spoke to Reuters last week, Softbank is currently not pursuing an investment in Tesla given its investment earlier this year in rival GM Cruise.

Pressure is mounting on Musk to produce details of his financing plan.

Bloomberg reported on Sunday that PIF is in talks that could see it become a significant investor in Tesla as part of the take-private plan but has made no firm decision, citing people with knowledge of the fund's plans.

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Tesla's board has not received a detailed financing plan from Musk and is seeking more information, sources told Reuters on Thursday.

The board will make a decision on whether to hire advisers and launch a formal review of Musk's take-private proposal in the coming days, based on how much detail on the financing plan it receives from Musk, another source said.

The sources requested anonymity because the deliberations are confidential. A spokesman for PIF was not immediately available for comment. A Tesla spokesman declined to comment on behalf of the company and Musk.

The U.S. Securities and Exchange Commission has contacted Tesla to ask about Musk's assertion on Twitter that funding for his proposed deal was "secured", the Wall Street Journal reported on Wednesday.

Tesla is facing a make-or-break moment in its eight-year history as a public company, as competition from European automakers is poised to intensify with new electric vehicles from Mercedes, Audi, BMW and other rivals.

Taking Tesla private would remove the pressure from Musk coming from hedge funds betting that the company's stock will drop given its production issues and negative cash flow. It would also remove the company from the glare of Wall Street that comes with reporting quarterly earnings publicly.

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In a letter to employees on Tuesday, Musk suggested a choice for shareholders of selling their shares for \$420 each or remaining investors in a private Tesla.

Musk has also said he would be looking to keep his ownership of Tesla at around 20 percent in a buyout deal, and that a special purpose vehicle, like the one that exists at his aerospace company SpaceX, would allow Tesla shareholders to remain invested if they so choose.

Investment bankers and analysts have so far reacted with scepticism, telling Reuters it would be hard for Musk, whose net worth is pegged by Forbes at \$22 billion, to raise the equity and debt financing needed for the deal given Tesla is not turning a profit.

Some analysts have suggested that Musk could convince Tesla's top shareholders, such as Fidelity Investments and China's Tencent, to roll their equity stakes into the deal, thereby significantly reducing the amount of money needed to be raised.

However, the deal structure would come with big logistical and legal challenges when it comes to buying out smaller shareholders, analysts have said.

Additional reporting by Ed Taylor in Frankfurt and Carl O'Donnell in New York; Editing by Silvia Aloisi and Susan Fenton

Our Standards: [The Thomson Reuters Trust Principles](#).

EXHIBIT 332

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Saudi Fund in Talks to Invest in Tesla Buyout Deal - Bloomberg

Deals

Saudi Fund in Talks to Invest in Tesla Buyout Deal

By Matthew Martin, Ruth David, and Claire Boston

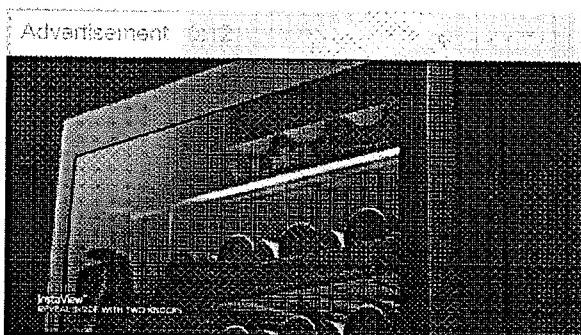
August 12, 2018, 9:07 AM EDT

Updated on August 13, 2018, 4:41 AM EDT

- Kingdom fund said to be in talks on ways to invest in buyout
- As board prepares to meet advisers, investor lawsuits begin

EXHIBIT 332
Elon Musk
11/5/2021

Reported by: Candice Andino
TX CSR No. 9332, RMR



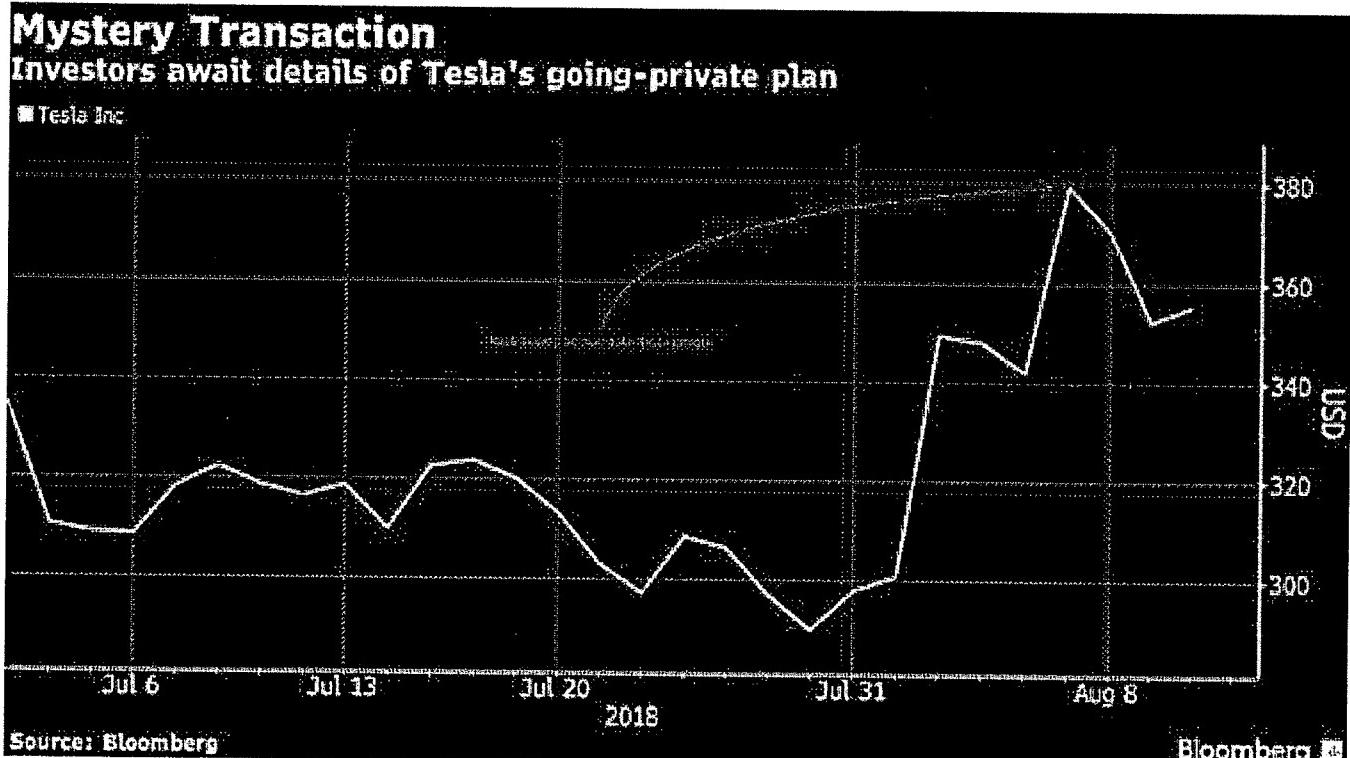
Elon Musk's attempt to take Tesla Inc. private will receive added scrutiny this week as the electric-car maker's board meets with advisers to assess a proposal that's drawn interest from Saudi Arabia's sovereign wealth fund.

The Saudi Kingdom's Public Investment Fund is working to be part of any investor pool that emerges to take Tesla private, people with knowledge of the fund's plans told Bloomberg News on Sunday. The fund, which recently built a stake just shy of 5 percent, is exploring how it can be involved, the people said on condition of anonymity.

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Saudi Fund in Talks to Invest in Tesla Buyout Deal - Bloomberg

The potential transaction's staggering \$82 billion price tag means Tesla is still likely to need to tap other sources of cash. Musk is hoping to avoid having one or two large stakeholders in a company and would instead prefer to gather the funds from a larger group, the people said, and is canvassing other potential investors including asset managers. Tesla directors will probably tell Musk, the chairman, to recuse himself, according to CNBC, and they've told him to hire his own separate advisers.



Musk's tweet announcing the deal -- and a proclamation of "Funding secured" -- shocked investors, and he has yet to back up his claim that he has financing for the transaction. The U.S. Securities and Exchange Commission is examining whether the tweet was meant to be factual, according to a person familiar with the matter, and at least two investors have sued Musk and Tesla alleging share-price manipulation. While the entrepreneur owns 20 percent of Tesla, more than \$60 billion would be needed to buy the business from public shareholders.

The Public Investment Fund didn't respond to requests for comment, and Tesla declined to comment.

Tesla shares were little changed at \$355.16 as of 10:29 a.m. on Frankfurt's Tradegate, before the U.S. market opens.

It won't be easy for Tesla to obtain the funding, according to Nannan Kou, a senior associate at Bloomberg NEF in Beijing.

"The question is still around Tesla's future sales. This is essentially a chicken-and-egg problem," Kou said in an email. "At this stage, it is hard for Tesla to convince the general investors that delivery will ramp up quickly. So the potential investor must be patient and strategic-looking."

Earlier Discussions

Discussions over taking Tesla private have failed before. Musk and SoftBank Group's Masayoshi Son held talks last year that touched on taking Tesla private, two people with knowledge of the talks have said. The discussions failed to progress due to disagreements over ownership.

SoftBank isn't planning to participate as a potential source of capital in a deal taking Tesla private, according to people with knowledge of that matter who asked not to be identified as the details aren't public. Among the reasons, they said, is that SoftBank has already placed big bets on the future of the automobile with General Motors Co., and that Tesla faces increased competition and has yet to deliver on its mass-market ambitions.

The Saudi fund's talks began before the controversial Aug. 7 tweet in which Musk said he was weighing a plan to take the company private. The PIF sees its investment in Tesla as a strategic way for the world's biggest crude producer to hedge against oil, said the people, who asked not to be identified. The Saudi fund hasn't made any firm decisions on whether to increase its stake, or by how much, but talks are ongoing, they said. It wasn't immediately clear how much the fund would invest in Tesla.

To read more about Tesla:

[Musks Tweet Draws Tesla Investor Lawsuits Over Share Price Jump](#)

[Tesla Marks the Latest High-Profile Bet for Saudi Wealth Fund](#)

[Can Elon Musk Tweet That? The SEC May Have an Opinion: QuickTake](#)

Wall Street is awash with speculation on who might team up with Musk to do a deal. Musk and his advisers are seeking a wide pool of investors to back a potential take-private of the automaker to avoid concentrating ownership among a few new large holders, according to people familiar

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with the matter. Musk has said he still expects to own about 20 percent of Tesla after any transaction, and that he hopes all shareholders will remain owners of a private company.

The SEC, which already had been gathering information about Tesla's public pronouncements on manufacturing goals and sales targets, is intensifying scrutiny of the company's statements in the wake of Musk's tweet, people familiar with the matter have said.

The Public Investment Fund approached Musk several months ago to discuss buying a minority stake, but he initially resisted the investment and said there were no plans to issue new shares, according to a different person familiar with the talks at the time. As a result, PIF itself decided to buy about \$2 billion in Tesla shares on the market with the help of an investment bank, the person said.

The current talks about the PIF potentially participating in a take-private transaction started in recent weeks, the other people said.

The Saudi government is planning to turn the PIF into a \$2 trillion powerhouse to help diversify the kingdom's oil-dependent economy. In a tweet on Sunday, the nation's Energy Department said Saudi Arabia currently is working to develop a city to support the supply of raw materials and parts for the automobile industry. The goal is to reduce imports, increase exports, encourage foreign investments and provide jobs.

For more on Tesla, check out the *Decrypted* podcast:

– With assistance by Oliver Sachgau, Dinesh Nair, Zaid Sabah, Ed Hammond, and Yan Zhang

(Updates with early trading in Frankfurt in sixth paragraph.)

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